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STATE REGISTER

STATE OF MINNESOTA

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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 10			
11	Monday August 26	Friday August 30	Monday September 9
12	Friday August 30	Monday September 9	Monday September 16
13	Monday September 9	Monday September 16	Monday September 23
14	Monday September 16	Monday September 23	Monday September 30

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the State Register. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
• Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
• Proposed amendments to rules already in existence in the Minnesota Rules.
• Proposed emergency rules.
• Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the State Register unless an agency requests this.)
• Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
• Notice of adoption of emergency rules.
• Adopted amendments to emergency rules (changes made since the proposed version was published).
• Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
• Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the State Register and filed with the Secretary of State before July 31, 1983 are published in the Minnesota Rules 1983. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the State Register but are generally not published in the Minnesota Rules 1983 due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The State Register publishes partial and cumulative listings of rule in the MINNESOTA RULES AMENDMENTS AND ADDITIONS list on the following schedule:

Table with 2 columns: Issue range and Issue number. Includes: Issues 1-13, inclusive; Issues 14-25, inclusive; Issue 26, cumulative for 1-26; Issues 27-38, inclusive; Issue 39, cumulative for 1-39; Issues 40-51, inclusive; Issue 52, cumulative for 1-52.

The listings are arranged in the same order as the table of contents of the Minnesota Rules 1983.

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PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Education Management Effectiveness

Proposed Rules Governing Public Library Construction Grants

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Board of Education proposes to adopt the above-entitled rules without a public hearing. The Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Sections 14.21 to 14.28.

Cities, counties and regional public library systems may apply for grants for public library construction and remodeling. The rule establishes grant application procedures, project requirements, and criteria, and procedures for evaluating applications and awarding grants.

Persons interested in these rules are encouraged to submit comments in support of or in opposition to the proposed rules. Each comment should identify the portion of the proposed rules addressed, the reason for the comment and any change proposed. Persons submitting these comments shall have 30 days to submit comments on the proposed rules following publication in the *State Register*. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. §§ 14.131 to 14.20.

Persons who wish to submit comments or a written request for a public hearing on the proposed rules should submit such comments or requests to:

William G. Asp, Director
Office of Library Development and Services
440 Capitol Square
550 Cedar Street
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minn. Stat. §§ 121.09, 121.11, Subd. 12, and § 134.32, Subd. 8. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules has been prepared and is available from William G. Asp upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to William G. Asp.

The Board estimates that the proposed rules will not require an expenditure of public monies by all local public bodies of an amount which exceeds \$100,000 in either of the two years immediately following adoption of the proposed rules. These proposed rules will not directly affect small businesses.

A copy of the proposed rules is attached to this notice.

A free copy of this notice and the proposed rules is available and may be obtained by contacting William G. Asp.

August 13, 1985

Curman L. Gaines
for
Ruth E. Randall
Secretary
State Board of Education

Rules as Proposed (all new material)

3530.2610 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 3530.2610 to 3530.2644 have the meanings given them in this part.

Subp. 2. LDS. "LDS" means Office of Library Development and Services in the State Department of Education.

Subp. 3. LSCA. "LSCA" means the Library Services and Construction Act Amendments of 1984, Public Law Number 98-480, published in Statutes at Large, volume 98, page 2236.

Subp. 4. Project. "Project" means a plan by an applicant for a grant under parts 3530.2610 to 3530.2644 for construction, as the term is defined in LSCA, which includes to erect a new public library building; or to acquire and alter a building for use as a public library building; or to remodel or expand an existing public library building; or to remove architectural barriers for the physically disabled; or to remodel to conserve energy or remodel to accommodate new technologies; and, if necessary, to acquire land for, and initially equip the resultant building; all to be financed in part by the grant. "Project" excludes the purchase of books and other library materials and library supplies.

Subp. 5. Recipient. "Recipient" means an applicant who receives a grant for public library construction from the State Board of Education under parts 3530.2610 to 3530.2644.

3530.2612 APPLICATIONS FOR CONSTRUCTION GRANTS.

Subpart 1. Who may apply. A regional public library system, or a city or county participating in a regional public library system may apply for a public library construction grant under parts 3530.2610 to 3530.2644 provided that the regional public library system also qualifies for a regional library basic system support grant under Minnesota Statutes, section 134.34.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

PROPOSED RULES

Subp. 2. Application forms. An application for a public library construction grant must be made on an application form available from LDS. The form must include a copy of the list of standard assurances required by the federal government.

3530.2614 APPLICATION CONTENTS.

Subpart 1. Information required. The application must include the information required in this part.

Subp. 2. Resolution by governing body. The applicant must provide a copy of the resolution passed by the applicant's governing body approving the application and authorizing execution of the grant contract if grant funds are available.

Subp. 3. Building program. The applicant must provide a copy of the library building program which will serve as a guide for the project's architect to the purposes, functions, and operations of the library building that is to result from the project. The library building program must contain the following information for each project:

A. an introductory statement, history, and description of existing public library building and services provided; the population of the community and population characteristics; a brief description of businesses, industries, educational institutions, and government agencies in the community; the current library services and indicators of library use such as the number of registered library users and circulation of library materials; the number of library staff, the number of hours per week that the library is open; the current library operating budget;

B. the requirements for the new, expanded, or renovated library building, taking into account the population to be served and the services to be offered; a description of library site; the present and projected size of the library collection indicating all different formats of materials, shelving space required, and proximity relationships among adult, children's, reference, and audiovisual materials collections; user accommodations including circulation desk, numbers of tables and chairs, type and size of library catalog, number of study carrels, audiovisual equipment, photocopiers, toilet facilities, exhibit spaces, and number of meeting rooms; the staff accommodations including offices, work rooms, maintenance rooms, provisions for delivery of library materials, provisions for bookmobile service if provided; the number of parking spaces, signs, heating and air conditioning systems needed, characteristics of lighting and floor coverings, number and location of telephones, types and location of conduit needed for cable television and computer terminals; and

C. a general summary with statement of need, library goals, and statement of how the project would meet the goals and project criteria in parts 3530.2624 and 3530.2630.

Subp. 4. Engineer's report. When the project is the remodeling of an existing building or expansion of an existing building, the applicant must provide a report by an engineer licensed in Minnesota which evaluates the structural soundness, fire, and safety hazards of the existing building.

Subp. 5. Architect's certification. The applicant must provide a certification by a Minnesota registered architect that the project's facilities are designed to make them accessible to and usable by physically disabled persons as required by Code of Federal Regulations, title 34, section 75.610, and Minnesota Statutes, sections 471.465 to 471.469.

Subp. 6. Relationship to historic buildings. The applicant must provide a statement of the relationship of the project to, and probable effect on, any historic district site, building, structure, or object that is included in the National Register of Historic Places as required in United States Code, title 16, section 470f or eligible under criteria established by the Secretary of the Interior for inclusion in the National Register of Historic Places, as required in Code of Federal Regulations, title 34, section 75.602.

Subp. 7. Preliminary plans. The applicant must provide preliminary plans for the project, prepared by a Minnesota registered architect, including a site plan and vicinity maps, subsurface soil analysis, schematic design studies, and outlined specifications.

Subp. 8. Flood hazard evaluation. The applicant must provide an evaluation of flood hazards in accordance with Executive Order 11988 and, as far as practicable, avoid uneconomic, hazardous, or unnecessary use of flood plains in connection with the project, as required in Code of Federal Regulations, title 34, section 75.611.

Subp. 9. Impact on the environment. The applicant must provide its assessment of the impact of the project on the quality of the environment in accordance with the National Environmental Policy Act of 1969, United States Code, title 42, section 4332(2)(c), and Executive Order 11514, as required by Code of Federal Regulations, title 34, section 75.601.

Subp. 10. Budget. The applicant must provide the project budget including estimated expenditures for site acquisition and preparation, consultant fees, planning costs, administration costs; contracts for the construction for a new building, expansion or remodeling of an existing building; architectural, engineering, and inspection costs; initial equipment, furniture, utilities, and floor coverings; and moving expenses for existing collection, equipment, and furniture.

The budget must also include a statement of sources of revenue which must include the nature and source of all funds available for the project and of all funds to be made available and dates when the funds will be available.

If the project is for a library in a multi-purpose building, the costs of the entire building must be prorated so that the costs attributable to the library bears the same ratio to the total budget as the number of square feet of library space bears to the total number

of square feet in the building, excluding the shared space. Costs of shared space such as lobbies, restrooms, and meeting rooms must be prorated with the same ratio. The project budget shall include only the prorated share of costs attributable to the library.

Subp. 11. Evidence of title to land. The applicant must provide evidence that it holds fee title to the project site including right of access, or that the applicant can complete negotiations for fee title to the site within 30 days of approval of the application. In obtaining fee title, provisions of Code of Federal Regulations, volume 34, part 15 apply.

Subp. 12. Assurances. The applicant must give written assurance of compliance with all applicable state and federal laws and rules, including but not limited to the law and rules in items A to J.

A. The applicant must comply with each specific assurance listed on Part V, Assurances, on the Application for Federal Assistance for Construction Programs, Federal Register, volume 42, pages 45878 to 45879. The list is also included in the application form as specified in part 3530.2612, subpart 2.

B. As required by the General Education Provisions Act, United States Code, title 20, section 1232b, the applicant must comply with the Davis-Bacon Act, United States Code, title 40, sections 276a to 276a-7 as supplemented by Department of Labor regulations in Code of Federal Regulations, title 29, part 5. This applies to all construction contracts and subcontracts awarded by the recipients and subrecipients of more than \$2,000. Under this act contractors and subcontractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in wage determination made by the secretary of labor. In addition, contractors and subcontractors shall be required to pay wages not less than once per week. The recipient shall place a copy of the current prevailing wage determination issued by the Department of Labor, as published periodically in the Federal Register, in each solicitation and the award of contract or subcontract shall be conditioned upon the acceptance of the wage determination. The recipient shall report all suspected or reported violations to the federal sponsoring agency.

C. As required by the General Education Provisions Act, United States Code, title 20, section 1232b, the applicant must comply with the Copeland Antikick Back Act, United States Code, title 18, section 874, as supplemented in Department of Labor regulations in Code of Federal Regulations, title 29, part 3. This applies to all construction and repair contracts and contracts of recipients and subrecipients in excess of \$2,000. It provides that each contractor or subcontractor shall be prohibited from inducing by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The recipient shall report all suspected or reported violations to the federal sponsoring agency.

D. The applicant must comply with Minnesota Statutes, sections 177.41 to 177.43, relating to prevailing wage rates.

E. For an applicant whose project site is in an area subject to recurrent flooding in a local government unit identified by Minnesota Statutes, section 104.08, subdivision 2, the applicant must comply with Minnesota Statutes, section 104.08, subdivision 3.

F. An applicant shall assure that it will display a sign at the project site stating that federal funds provided under LSCA are being used for the project.

G. An applicant shall assure that there will be a plaque in the completed building indicating the date of completion and source of funds, and that the plaque will state that funds were provided under LSCA.

H. The applicant shall assure that the funds allotted to it for public library construction will be used solely for the following purposes:

- (1) erection costs for new buildings for public library services;
- (2) costs for expansion, remodeling, and alteration of existing buildings for public library services;
- (3) site grading and improvement of land on which facilities are located;
- (4) architectural, engineering, and inspection expenses incurred after site selection;
- (5) moving expenses for existing collection, equipment, and furniture;
- (6) expenses related to acquisition and installation of initial equipment including all necessary building fixtures, utilities, furniture;
- (7) services of consultants related to the project; and

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(8) expenses other than interest and the carrying charges on bonds related to the acquisition of an existing building or of land on which there is to be construction of new buildings or expansion of existing buildings to be used for public library facilities. The expenses must constitute an actual cost or transfer of public funds.

I. The applicant shall assure that the funds allotted to it as a recipient for public library construction shall not be used for the purchase of books or other library materials or library supplies.

J. The applicant must comply with the federal laws and regulations the state is made responsible for enforcing in Code of Federal Regulations, title 34, parts 74, 76, and 770; and sections 75.600 to 75.616.

Subp. 13. Additional information. The director of LDS may request additional information from the applicant to clarify and evaluate the application. If the additional information requested has not been received at LDS within ten working days after the request for additional information, the grant application shall be evaluated and approved or disapproved solely on the basis of the information it contains.

3530.2616 APPLICATION DATES.

For state fiscal year 1986 only, the grant application must be filed on or before March 1, 1986. In subsequent years, applications for public library construction grants must be filed on a date established by the State Board of Education and published in the *State Register* and in the newsletter of LDS not less than 120 days before the application date.

3530.2618 NOTICE OF INTENT.

Not less than 90 days before the application date, the applicant shall file with LDS a notice of intent to apply on a form available from LDS. The notice of intent shall contain a brief description of the project, the estimated cost, and the amount of the grant to be requested. No less than 60 days before the application date, LDS shall send application forms to all governmental units filing a notice of intent if their project, based on the information contained in the notice of intent, is eligible under federal and state law and rules and regulations. LDS shall send to all other applicants a statement indicating why the project is not eligible.

3530.2620 REGIONAL LIBRARY SYSTEM ASSISTANCE.

A city or county applicant shall request that the staff of the regional public library system in which the applicant participates provide assistance in developing the building program, preliminary plans, the project budget, and the grant application.

3530.2622 REGIONAL REVIEW.

A city or county applicant shall provide a copy of the application to the board of the regional public library system in which the applicant participates no less than 15 working days prior to the application date. The system board may provide written comment to the director of LDS by the application date.

3530.2624 MINIMUM PROJECT SIZES.

Subpart 1. New construction. For erection of a new building, remodeling of an existing building for use as a public library, or expansion of a public library building, the minimum project size is a total project cost of at least \$50,000. The resultant building shall have a minimum total interior floor space in relation to population to be served as follows:

Population	Minimum Total Floor Space
Up to 4,999	2,500 square feet or 0.7 square feet per capita, whichever is greater
5,000 to 9,999	3,500 square feet or 0.7 square feet per capita, whichever is greater
10,000 to 24,999	7,000 square feet or 0.7 square feet per capita, whichever is greater
25,000 to 49,999	15,000 square feet or 0.6 square feet per capita, whichever is greater
50,000 and above	0.6 square feet per capita

If the library functions of acquisitions, cataloging, and processing are provided elsewhere, the minimum total floor space may be reduced by five percent. If a community meeting room is available for library use in a nonlibrary portion of the building or in an adjacent building, or if heating and cooling equipment are housed outside the library building, or both, the minimum total floor space may be reduced by five percent.

If the project is for a library in a multi-purpose building, shared space such as lobbies, restrooms, and meeting rooms may be attributed to the library based on the ratio of the number of square feet of library space to the total number of square feet of space in the building, excluding the shared space.

Subp. 2. Construction for removal of architectural barriers or energy efficiency. For projects solely for removal of

architectural barriers for physically disabled persons, or renovation for energy efficiency, the minimum project size is a total project cost of at least \$10,000. The resultant building shall have a minimum total interior floor space in relation to population served as established in subpart 1.

3530.2626 RECENT CONSTRUCTION INELIGIBLE.

No grant shall be made for a project involving a public library building on which construction was completed during the five years preceding the application date, unless the project involves a public library building destroyed or damaged by a major fire, flood, or other catastrophe.

3530.2628 MAXIMUM GRANT.

Grant funds provided under this grant program may constitute up to 33 percent of the total project cost. No grant shall exceed \$200,000.

3530.2630 PROJECT CRITERIA.

Subpart 1. Scope. The project site, design, and size as proposed in the application must meet the criteria in part 3530.2624 and this part.

Subp. 2. Site. The library site must provide maximum convenient access to the greatest number of people in the community during the normal course of their daily activities by being:

- A. located at or near the center of highest density of daily activity and near such facilities as post offices and retail stores;
- B. located on a primary street, preferably at an intersection;
- C. highly accessible to pedestrian traffic within the area;
- D. convenient to parking; and
- E. convenient to public transportation in cities where it is available.

Subp. 3. Exterior. The exterior of the library must be:

- A. easily identifiable as a library with an exterior sign with the name of the library in letters at least 12 inches high;
- B. lighted on the exterior for safe access during evening hours;
- C. designed so that the single public entrance or major public entrance is convenient for pedestrian traffic and to parking lots, and is barrier-free for physically disabled persons; and
- D. designed for convenient delivery of library materials.

Subp. 4. Interior. The interior of the library must be:

- A. designed to be as flexible and open as possible with a minimum of load bearing walls to allow for major rearrangement of services within existing spaces for future expansion;
- B. designed to be completely accessible to physically disabled persons;
- C. designed to be in compliance with state and local building, fire, safety, and other codes;
- D. provided with year-round humidity and temperature control, and in construction of new library buildings, natural ventilation in all parts of the building to be occupied by people;
- E. designed to include one circulation desk to serve the entire building and to serve as the control point for maximum sight supervision of the building;
- F. designed, with a functional arrangement of all public and nonpublic areas, for ease of movement through the building for users and staff, and for economical use of space;
- G. lighted at 50 to 70 sustained foot-candles at table-top height in public service areas and 30 to 50 sustained foot-candles at table-top height in storage areas, with lights in both areas evenly distributed and of a quality to provide adequate light without glare;
- H. in a new library building, designed on a single ground floor level, unless the new library building exceeds 20,000 square feet, when a second floor is permitted; and

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1. for additions to an existing building, designed so that at least the square footage required in part 3530.2624 is on a single level, or a maximum required of 20,000 square feet on a single level.

3530.2632 APPLICATION RATING.

To measure relative need, all applications shall be rated by staff of LDS using the scales established in this part:

A. A numerical rating shall be determined for each project based on the capacity of the applicant governmental unit to raise revenue. The per capita state average adjusted assessed valuation, as determined by the equalization aid review committee under Minnesota Statutes, section 124.2131, shall be calculated for the most recent three years. The per capita average adjusted assessed valuation for each applicant government unit shall be calculated for the most recent three years. Projects will be awarded points as follows:

(1) projects where the average adjusted assessed valuation per capita is more than 50 percent below the state average for the most recent three years, 20 points;

(2) projects where the average adjusted assessed valuation per capita for the most recent three years is more than 25 percent below but less than 50 percent below the state average, 15 points;

(3) projects where the average adjusted assessed valuation per capita for the most recent three years is below the state average but less than 25 percent below the state average, ten points; and

(4) projects where the average adjusted assessed valuation for the most recent three years is at or above the state average, zero points.

B. A numerical rating of zero to ten points shall be assigned based on the age of the existing public library facility. The age of the facility will be determined by the date that construction was completed or the date that the most recent renovation, remodeling, or expansion of the facility was completed. The date of completion of the most recent remodeling shall be used when the remodeling affected 50 percent or more of the total square footage of the library. The date of completion of the most recent expansion shall be used when the expansion increases the total square footage of the library by 50 percent or more. Projects will be awarded points as follows:

(1) no existing building or library in leased facility, ten points;

(2) 50 years or more, ten points;

(3) 40 years but less than 50 years, eight points;

(4) 30 years but less than 40 years, six points;

(5) 20 years but less than 30 years, four points;

(6) 10 years but less than 20 years, two points; and

(7) less than ten years, zero points.

C. A numerical rating of one to ten points shall be assigned based on the relationship of the size of the present public library facility to the minimum project sizes established in part 3530.2624, as follows:

(1) there is no present building or the size of the present facility is up to ten percent of the minimum project size, ten points;

(2) the size of the present facility is 11 percent to 20 percent of the minimum project size, nine points;

(3) the size of the present facility is 21 percent to 30 percent of the minimum project size, eight points;

(4) the size of the present facility is 31 percent to 40 percent of the minimum project size, seven points;

(5) the size of the present facility is 41 percent to 50 percent of the minimum project size, six points;

(6) the size of the present facility is 51 percent to 60 percent of the minimum project size, five points;

(7) the size of the present facility is 61 percent to 70 percent of the minimum project size, four points;

(8) the size of the present facility is 71 percent to 80 percent of the minimum project size, three points;

(9) the size of the present facility is 81 percent to 90 percent of the minimum project size, two points; and

(10) the size of the present facility is more than 90 percent of the minimum project size, one point.

D. A numerical rating of zero to 12 points shall be assigned based on the relationship of the size of the project to the minimum project sizes established in part 3530.2624, as follows:

- (1) if the project is up to ten percent larger than the minimum project size, two points;
- (2) if the project is from 11 to 20 percent larger than the minimum project size, four points;
- (3) if the project is from 21 to 30 percent larger than the minimum project size, six points;
- (4) if the project is from 31 to 40 percent larger than the minimum project size, eight points;
- (5) if the project is from 41 to 50 percent larger than the minimum project size, ten points; and
- (6) if the project is more than 50 percent larger than the minimum project size, 12 points.

E. If the project replaces a public library building destroyed or damaged by a major fire, flood, or other catastrophe, five points shall be assigned.

F. If the project is for a public library facility in a city or neighborhood that does not now have a public library, and it is located at least ten miles from another Minnesota public library facility, and it will serve a population of 2,500 or more, five points shall be assigned.

G. If the public library building meets or exceeds the number of hours open per week in the following table, five points shall be assigned.

Service Area Population	Hours Per Week
Up to 4,999	20
5,000 to 9,999	40
10,000 to 24,999	50
25,000 or more	68

H. A numerical rating of zero to five points shall be assigned based on the average per capita expenditure of the library for library materials as reported to LDS on annual report forms for the most recent three years. The per capita state average expenditure for library materials by all public libraries shall be calculated for the same three year period and projects shall be awarded points as follows:

- (1) projects where the average expenditure per capita for library materials is 100 percent or more above the state average for the most recent three years, four points;
- (2) projects where the average expenditure per capita for library materials is at least 75 percent but less than 100 percent above the state average for the most recent three years, four points;
- (3) projects where the average expenditure per capita for library materials is at least 50 percent but less than 75 percent above the state average for the most recent three years, three points;
- (4) projects where the average expenditure for library materials is at least 25 percent but less than 50 percent above the state average for the most recent three years, two points;
- (5) projects where the average expenditure for library materials is at or above the state average but less than 25 percent above the state average for the most recent three years, one point; and
- (6) projects where the average expenditure for library materials is below the state average for the most recent three years, zero points.

I. A numerical rating of one to five points shall be assigned based on the population to be served by the new facility as follows:

- (1) up to 4,999, one point;
- (2) 5,000 to 9,999, two points;
- (3) 10,000 to 24,999, three points;
- (4) 25,000 to 49,999, four points; and
- (5) 50,000 and above, five points.

J. A numerical rating of zero to five points shall be assigned based on the percentage of the population to be served by the new facility that is over the age of 65 years, according to the most recent United States census. The percentage must be based on the

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most recent United States census, the 1980 Census of Population, volume 1: Characteristics of the Population, chapter B: General Population Characteristics, part 25: Minnesota, which is incorporated by reference. The census is available at the State Law Library. It is not subject to frequent change. Points must be assigned to the projects as follows:

- (1) projects where the percentage of population over the age of 65 years is 100 percent or more above the state average, five points;
- (2) projects where the percentage of population over the age of 65 years is 75 to 99 percent above the state average, four points;
- (3) projects where the percentage of population over the age of 65 years is 50 to 74 percent above the state average, three points;
- (4) projects where the percentage of population over the age of 65 years is 25 to 49 percent above the state average, two points;
- (5) projects where the percentage of population over the age of 65 years is at the state average to 24 percent above the state average, one point; and
- (6) projects where the percentage of population over the age of 65 years is below the state average, zero points.

K. If the project is a new or expanded headquarters for a regional public library system, five points shall be assigned.

L. If the project, when completed, will contain books and other library materials that will serve individuals with limited English-speaking proficiency, as evidenced by the building program, three points shall be assigned.

M. If the project, when completed, will contain books and other library materials that will serve individuals who are illiterate, as evidenced by the building program, three points shall be assigned.

N. If the project, when completed, will provide facilities for use of telecommunications and computer technology, as evidenced by the building program, three points shall be assigned.

O. In case of a tie, the project or projects having the lowest average per capita adjusted assessed valuations for the most recent three years shall be awarded grants in order from lowest to highest average until all funds have been granted.

3530.2634 PROJECT PRIORITIES.

All projects shall be funded in order by total points assigned in the application rating until all available funds have been granted.

In order to ensure the use of all available funds, the first priority project for which insufficient funds remain to award the amount of grant requested shall be offered a grant amount less than the dollar amount requested. The applicant shall then be requested to indicate whether or not the project as proposed could be implemented with a smaller grant amount, and shall be requested to show how the project could be modified, if necessary, to meet all criteria with a smaller project budget. That applicant shall have 60 days to modify its project to the satisfaction of the director of LDS. If the applicant is unable to modify the project to the satisfaction of the director of LDS, the same request shall be made to applicants in descending order of priority until all funds are granted.

3530.2636 CONSTRUCTION GRANTS REVIEW COMMITTEE.

The library building program and the preliminary plans for the project shall be evaluated by a construction grants review committee of five persons appointed by the chairperson of the advisory council to LDS as required by LSCA. At least one member of the committee shall be an architect registered in the state of Minnesota and at least two members shall be public librarians. The committee shall evaluate each of the programs and plans in terms of the degree to which program requirements are met by the preliminary plans, indicating any program requirements which are not included in the preliminary plans; and the degree to which the preliminary plans meet project criteria established in parts 3530.2624 and 3530.2630, indicating any project criteria which are not met and suggesting modifications to the plans so that criteria can be met.

Within ten working days after the application date, the committee shall present its evaluations to the director of LDS. Within five working days after receiving the committee evaluation, the director of LDS shall report all deficiencies to the applicant. The applicant may modify building plans to correct the deficiencies identified. The modification must be received at the LDS within ten working days after receiving the report of deficiencies. No project shall be submitted to the State Board of Education for funding unless the project is modified to the satisfaction of the director of LDS. No grant shall be made to a project unless the building plans have been modified to meet the building program and the project criteria.

3530.2638 APPROVAL OF PROJECTS.

The director of LDS shall advise the State Board of Education of applications meeting the project criteria specified in part 3530.2630, and the results of application rating performed as specified in part 3530.2632. The State Board of Education shall award grants in order by total points assigned in the application rating until all available funds have been granted. The commissioner of education shall notify the United States Department of Education of the approved projects for which federal funds are to be used.

3530.2640 HEARINGS.

An applicant whose application for funds is denied may, within ten days of receipt of notification of denial from the State Board of Education, request a hearing on the denial.

3530.2642 GRANT AGREEMENTS.

Subpart 1. Grant contract required. A grant contract shall be offered to each applicant whose project application is approved for funding by the State Board of Education. The contract must be signed by a person authorized to commit the applicant to legally binding agreements and to execute the contract.

Subp. 2. Contents of grant contract. The grant contract shall include:

A. a work program which indicates completion dates for major parts of the project and the projected budget supporting the work program;

B. a description of the manner in which payments will be made to grant recipients;

C. a clause providing that the books, records, documents, and accounting procedures of the recipient, relevant to the contract, are subject to examination by the LDS and the state auditor, as required by Minnesota Statutes, section 16B.06;

D. provision for an audit of the receipts and disbursements of all funds for the project, to be performed by the staff of the state auditor's office, a certified public accountant, or a public accountant, under procedures in Minnesota Statutes, sections 6.64 to 6.71;

E. assurance that the grant recipient will comply with all applicable state and federal laws, including the federal laws or regulations for which the state is made responsible for enforcement in Code of Federal Regulations, title 34, parts 74, 76, and 770; and sections 75.600 to 75.616;

F. assurance that final working drawings and specifications will be submitted for review for compliance with the state building code as required in Minnesota Statutes, section 16B.61, subdivision 4;

G. assurance that the grant recipient will supply to LDS a tabulation of all bids received, showing the bids accepted;

H. assurance that construction on the project shall be initiated by having workers on the job placing materials on the job, within 150 days of notification by the department that the grant has been awarded;

I. assurance that construction on the project will be completed within:

(1) 15 months from the project initiation date for projects with budgets of less than \$500,000;

(2) 18 months from the project initiation date for projects with budgets of less than \$1,000,000; and

(3) 24 months from the project initiation date for projects with budgets exceeding \$1,000,000;

J. assurance that LDS shall be supplied with weekly payroll reports submitted by contractors and subcontractors;

K. assurance of compliance with Public Law Number 98-480, section 202, subpart (c);

L. assurance that if the grant recipient discontinues participation in, or is unable to qualify for participation in, the regional library basis system support grant program under provisions of Minnesota Statutes, section 134.34, it shall refund to the state five percent of the grant amount for each year from the year of discontinuation of participation to the year that is 20 years after the project completion date; and

M. assurance that LDS will be notified of project completion within 30 days after project completion so that it may notify the United States Department of Education as required by Code of Federal Regulations, title 34, section 770.21(a)(2).

3530.2644 RETURN OF GRANT FUNDS.

If a project is completed for an amount lower than the amount in the project budget in the application, the recipient shall amend its grant contract and return any unexpended funds to the State Department of Education. The grant amount shall be reduced by the same percentage as the total project budget has been reduced. The State Board of Education shall first offer those returned funds to the first recipient under part 3530.2634 whose project was funded at less than the requested amount. That recipient shall have 60 days to modify its project to the satisfaction of the director of LDS to expand an increased grant amount up to the amount in its application. If additional funds remain, grants shall be offered to remaining applicants, in priority order as established in part 3530.2634 provided that projects still meet all criteria and provisions of federal and state rules and regulations as determined by the director of LDS.

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Department of Human Services

Proposed Temporary Rules Relating to Determination of Nursing Home Payment Rate

Notice of Intent to Adopt Temporary Rule Amendments

The State Department of Human Services proposes to adopt temporary amendments to the above-entitled temporary rules in accordance with Laws of Minnesota 1984, chapter 641, section 22, subdivision 6 and Minnesota Statutes, section 256B.431, subdivision 6.

Persons interested in these amendments have until 4:30 p.m. on September 23, 1985, to submit written comments. The proposed temporary amendments may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Rosemary Chapin
Department of Human Services
Sixth Floor, Space Center
444 Lafayette Road
St. Paul, Minnesota 55101

After consideration of all comments received, the Department of Human Services shall submit the temporary amendments as published, with any modifications, this notice, required supporting documents, and all written comments received to the Attorney General.

The Attorney General shall review the proposed temporary amendments, with any modifications, as to its legality, review its form to the extent the form relates to legality and shall approve or disapprove the amendments and any modifications within five working days.

The approved amendments shall also be certified by the Revisor of Statutes.

The temporary amendments adopted under the provision of Laws of Minnesota, chapter 641, section 22, subdivision 6, and Minnesota Statutes, section 256B.431, subdivision 6, shall have the force and effect of law and remain in effect until June 30, 1986, unless otherwise superseded by rule.

The Department of Human Services' authority for adoption of these amendments is found in Laws of Minnesota 1984, chapter 641 and Minnesota Statutes, sections 256B.41, 256B.21, and 256B.431, subdivisions 1, 2 c, and 6.

The purpose of Minnesota Rules, parts 9549.0050 to 9549.0059 [Temporary] is to implement a case mix reimbursement system which bases nursing home operating costs payments on the condition and needs of residents in each home.

The rule impacts the operating cost payment rate for nursing homes licensed under Minnesota Statutes, chapter 144A or boarding care facilities licensed under Minnesota Statutes, section 144.50 to 144.58 participating in the Medical Assistance Program.

The purpose of the amendment of part 9549.0052, subpart 1, is to delete language in the rule which contradicts Laws of Minnesota, 1985 Special Session, Chapter 3.

The purpose of the amendments to part 9549.0054, subpart 4 and 5, is to clarify how to calculate the allowable historical other care related operating cost per diems and the allowable historical other operating cost per diem, for the first rate year following the nursing home's interim reporting period.

The purpose of the amendments to part 9549.0055, subpart 2, is to clarify the way in which operating cost limits will be set. The other amendments are made to correct minor problems of reference or lack of clarity in the proposed rule.

These temporary amendments will not result in additional state or county spending in excess of \$100,000 annually beyond the amount of funds appropriated by the legislature.

A free copy of the proposed temporary amendments may be obtained by contacting Mary Ann Bredesen, Department of Human Services, Space Center, 444 Lafayette Road, 6th Floor, St. Paul, Minnesota 55101.

Upon adoption of the temporary rule amendments by the agency, the rule amendments as adopted and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission to this material to the Attorney General, or who wish to receive a copy of the adopted temporary rule amendments, must submit the written request to Rosemary Chapin.

Leonard W. Levine
Commissioner of Human Services

Temporary Rules as Proposed**DEPARTMENT OF HUMAN SERVICES
NURSING HOME PAYMENT RATE DETERMINATION [Temporary]****9549.0051 [Temporary] DEFINITIONS.**

Subpart 1. to 4. [Unchanged.]

Subp. 5. Case mix operating costs. "Case mix operating costs" means the operating costs listed in part 9549.0040, subpart 5, as proposed in *State Register*, volume 9, page 1716, February 4, 1985, and the portion of fringe benefits and payroll taxes allocated to the nursing services cost category in accordance with part 9549.0053.

Subp. 6. and 7. [Unchanged.]

Subp. 8. Other care related operating costs. "Other care related operating costs" means the operating costs listed in part 9549.0040, subpart 6, as proposed in *State Register*, volume 9, page 1716, February 4, 1985, and the portion of fringe benefits and payroll taxes allocated to the other care related cost category, the cost of food, and the required dietician consulting fees charged by a nonrelated organization in accordance with part 9549.0053.

Subp. 9. Other operating costs. "Other operating costs" means the operating costs listed in part 9549.0040, subparts 1, 2, 3, 4, and 7, as proposed in *State Register*, volume 9, page 1716, February 4, 1985, and the portion of fringe benefits and payroll taxes allocated to each of these operating costs categories in accordance with part 9549.0053, excluding the cost of food.

Subp. 10. to 13. [Unchanged.]

9549.0052 [Temporary] ESTABLISHMENT OF GEOGRAPHIC GROUPS.

The commissioner shall classify Minnesota nursing homes according to their geographic location as indicated in subparts 1 to 3.

Subpart 1. Group 1. All nursing homes in Beltrami, Big Stone, Cass, Chippewa, Clearwater, Cottonwood, Crow Wing, Hubbard, Jackson, Kandiyohi, Lac Qui Parle, Lake of the Woods, Lincoln, Lyon, Mahnomon, ~~McLeod~~, Meeker, Morrison, Murray, Nobles, Pipestone, Redwood, Renville, Rock, Swift, Todd, Yellow Medicine, and Wadena counties must be placed in geographic group 1.

Subp. 2. and 3. [Unchanged.]

9549.0053 DETERMINATION AND ALLOCATION OF THE FRINGE BENEFITS AND PAYROLL TAXES, FOOD COSTS, AND REQUIRED DIETICIAN CONSULTING FEES.

Subpart 1. Fringe benefits and payroll taxes. Fringe benefits and payroll taxes must be allocated to case mix, other care-related costs, and other operating costs according to items A to D.

A. Fringe benefits and payroll taxes must be allocated to case mix operating costs in the same proportion to salaries reported under part 9549.0040, subpart 5, as proposed in *State Register*, volume 9, page 1716, February 4, 1985.

B. Fringe benefits and payroll taxes must be allocated to other care-related costs in the same proportion to salaries reported under part 9549.0040, subpart 6, as proposed in *State Register*, volume 9, page 1716, February 4, 1985.

C. Fringe benefits and payroll taxes must be allocated to other operating costs in the same proportion to salaries reported under part 9549.0040, subparts 1, 2, 3, 4, and 7, as proposed in *State Register*, volume 9, page 1716, February 4, 1985.

D. [Unchanged.]

Subp. 2. Determination of food costs. For any nursing home which has not separately reported the cost of food under part 9549.0040, subpart 1, as proposed in *State Register*, volume 9, page 1716 (February 4, 1985), the commissioner shall determine the food costs according to items A and B.

A. and B. [Unchanged.]

Subp. 3. [Unchanged.]

9594.0054 [Temporary] DETERMINATION OF THE ALLOWABLE HISTORICAL OPERATING COSTS PER DIEMS.

The commissioner shall annually review and adjust the operating costs incurred by the nursing home during the reporting year

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preceding the rate year to determine the nursing home's actual allowable historical operating costs. The review and adjustment must comply with the provisions of parts 9549.0010 to 9549.0080, as proposed in *State Register*, volume 9, page 1716 (February 4, 1985).

Subpart 1. to 3. [Unchanged.]

Subp. 4. Allowable historical other care related operating cost per diem. The allowable historical other care related operating cost per diem must be computed by dividing the allowable historical other care related operating costs by the greater actual number of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period, except that a nursing home that is certified to provide a skilled level of care and that has an average length of stay of 180 days or less in their skilled level of care must divide the allowable historical other care related operating costs by the greater of resident days or 80 percent of the number of licensed beds multiplied by the number of days in the reporting period.

Subp. 5. Allowable historical other operating cost per diem. The allowable historical other operating cost per diem must be computed by dividing the allowable historical other operating costs by the greater actual number of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period, except that a nursing home that is certified to provide a skilled level of care and that has an average length of stay of 180 days or less in their skilled level of care must divide the allowable historical other operating costs by the greater of resident days or 80 percent of the number of licensed beds multiplied by the number of days in the reporting period.

9549.0055 [Temporary] DETERMINATION OF THE OPERATING COST ADJUSTMENT FACTORS AND LIMITS.

Subpart 1. [Unchanged.]

Subp. 2. Limits. For each geographic group established in part 9549.0052 [Temporary] the operating costs limits must be determined according to items A to F. No redetermination of the operating costs limits shall be made due to audit adjustments or appeal settlement.

A. [Unchanged.]

B. The commissioner shall compute 115 percent of the median of the array of the allowable historical other care related operating cost per diems for the base year. For the purpose of establishing operating cost limits, the commissioner shall compute the allowable historical other care related per diems for the base year by dividing the allowable historical other care related operating costs by the greater of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period. An exception to this calculation is made for a nursing home that is certified to provide a skilled level of care and has an average length of stay of 180 days or less in its skilled level of care. In that case, the allowable historical other care related operating costs must be divided by the greater of resident days or 80 percent of its number of licensed beds multiplied by the number of days in the reporting period.

C. and D. [Unchanged.]

E. The other operating costs limits must be determined in accordance with subitems (1) to (5). For the purpose of establishing operating costs limits, the commissioner shall compute the allowable historical other operating costs per diems for the base year by dividing the allowable historical other operating costs by the greater of resident days or 90 percent of the number of licensed beds multiplied by the number of days in the reporting period. An exception to this calculation is made for a nursing home that is certified to provide a skilled level of care and has an average length of stay of 180 days or less in its skilled level of care. In that case, the allowable historical other operating costs must be divided by the greater of resident days or 80 percent of the number of licensed beds multiplied by the number of days in the reporting period.

(1) to (5) [Unchanged.]

F. [Unchanged.]

Subp. 3. [Unchanged.]

9549.0056 [Temporary] DETERMINATION OF THE OPERATING COST PAYMENT RATE.

Subpart 1. to 3. [Unchanged.]

Subp. 4. Adjusted prospective other operating cost payment rate. The adjusted prospective other operating cost payment rate must be determined according to items A ~~or B~~ to C.

A. to C. [Unchanged.]

D. The nursing home's efficiency incentives in ~~items item~~ item A or B must not be changed as a result of field audit adjustment.

Subp. 5. [Unchanged.]

9549.0057 [Temporary] DETERMINATION OF THE INTERIM AND SETTLE-UP OPERATING COST PAYMENT RATES.

To receive an interim payment rate, a nursing home must comply with the requirements and is subject to the conditions of part 9549.0060, subpart 14, items A to C. The commissioner shall determine interim and settle-up operating cost payment rates for a newly constructed nursing home, or one with a capacity increase of 50 percent or more according to subparts 1 and 2.

Subpart 1. Interim operating cost payment rate. For the rate year or portion of an interim period beginning on or after July 1, 1985, the interim total operating cost payment rate must be determined according to parts 9549.0050 to 9549.0059 [Temporary], except that:

A. to B. [Unchanged.]

C. The commissioner shall use the anticipated resident days in determining both the allowable historical other care related operating cost per diem and the allowable historical other operating cost per diem. ~~Ninety percent of licensed beds multiplied by the number of days in the reporting period must not be used in determining these per diems.~~

D. and E. [Unchanged.]

F. The efficiency incentive in part 9549.0056 [Temporary], subpart 4, item A or B, must not apply.

Subp. 2. Settle-up operating cost payment rate. The settle-up total operating cost payment rate must be determined according to items A to C.

A. [Unchanged.]

B. The settle-up operating cost payment rate for a nursing home which commenced construction after June 30, 1985, or whose interim reporting period included a period of time after that date must be determined for the portion of that interim period occurring after June 30, 1985, as in parts 9549.0050 to 9549.0059 [Temporary].

(1) The standardized resident days occurring after ~~July~~ June 30, 1985, must be annualized for the interim reporting period.

(2) [Unchanged.]

(3) The commissioner shall use the actual resident days in determining both the allowable historical other care related operating cost per diem and the allowable historical other operating cost per diem. ~~Ninety percent of licensed beds multiplied by the number of days in the reporting period must not be used in determining these per diems.~~

(4) to (6) [Unchanged.]

C. [Unchanged.]

9549.0058 [Temporary] RESIDENT CLASSES AND CLASS WEIGHTS.

Subpart 1. Resident classes. Each resident must be classified according to items A to E based on the assessments performed under part 9549.0059 [Temporary] on the assessment form.

A. to E. [Unchanged.]

F. The commissioner shall establish resident classes based on the definitions in items A to E and according to subitems (1) to (11).

(1) to (6) [Unchanged.]

(7) Class G. High ADL, and scoring less than three on the eating ADL in item A, and not defined special nursing, and not defined behavioral condition ~~on assessment form.~~

(8) to (11) [Unchanged.]

Subp. 2. [Unchanged.]

9549.0059 [Temporary] RESIDENT ASSESSMENT.

Subpart 1. Assessment of nursing home applicants and newly admitted residents. Each nursing home applicant or newly admitted resident shall be assessed for the purpose of determining the applicant's or newly admitted resident's class according to items A to I.

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A. Each county preadmission screening team or hospital screening team under contract with the county must assess all nursing home applicants for whom preadmission screening is required by Minnesota Statutes, section 256B.091, and any applicant for whom a preadmission screening is not required but who voluntarily requests such a screening in accordance with Minnesota Statutes, section 256B.091, except as provided in subitems (1) and (2).

(1) [Unchanged.]

(2) A nursing home applicant whose admission to the nursing home is for the purpose of receiving respite care services ~~under the Alternative Care Grants program or under the medical assistance program~~ need not be reassessed more than once every six months for the purpose of computing resident days under part 9549.0054 [Temporary], subpart 2, if the applicant has been classified by the Department of Health within the prior six-month period. In this case, the resident class established by the Department of Health within the prior six-month period may be the resident class of the applicant. However, in no case shall a resident receive more than one assessment per respite care stay.

B. to I. [Unchanged.]

Subp. 2. [Unchanged.]

Subp. 3. Semiannual assessment by nursing homes. Semiannual assessments of residents by the nursing home must be completed in accordance with items A to E.

A. to C. [Unchanged.]

D. Any change in resident class due to a semi-annual assessment must be effective as of the first day of the month following the date of the completion of the semiannual ~~assessment~~ assessments.

E. [Unchanged.]

Subp. 4. Change in classification due to annual assessment by Department of Health. Any change in resident class due to an annual assessment by the Department of Health's QAR team will be effective as of the first day of the month following the date of completion of the Department of Health's ~~assessment~~ assessments.

Subp. 5 and 6. [Unchanged.]

Subp. 7. Change in resident class due to request for reconsideration of resident classification. Any change in a resident class due to a request for reconsideration of the classification must be made in accordance with items A and B.

A. The resident classification established by the Department of Health must be the classification that applies to the resident while any request for reconsideration under part ~~4546.0060~~ 4656.0060 is pending.

B. Any change in a resident class due to a reclassification under part ~~4546.0060~~ 4656.0060 must be effective as of the date of the assessment for which a reconsideration was requested.

Subp. 8. Reconsideration of resident classification. Any request for reconsideration of a resident classification must be made pursuant to the procedures set forth in part ~~4546.0060~~ 4656.0060.

Subp. 9. [Unchanged.]

Department of Public Safety

Proposed Rules Relating to License Revocation for Alcohol- and Controlled-Substance-Related Incidents

Notice of Public Hearing

Notice is hereby given that a public hearing will be held pursuant to Minn. Stat. § 14.14, subd. 1, in the above-entitled matter on October 3, 1985 in Room 300, State Office Building, St. Paul, Minnesota. The hearing will commence at 9:00 a.m. and will continue until all interested persons and groups have had an opportunity to be heard concerning adoption of the proposed rules by submitting either oral or written data, statements or arguments. The hearing will be conducted by Administrative Law Judge George Beck, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone: (612) 241-7601.

The hearing procedure is governed by Minnesota Statutes, sections 14.14 through 14.20 and 14.48 through 14.56, and by Minnesota Rules 1400.0200 through 1400.1200. Questions regarding the hearing procedure may be directed to the Administrative Law Judge at the above-listed address.

As a result of the hearing process, the proposed rules may be modified. Statements and briefs may be submitted without appear-

ing at the hearing by mailing them to the Administrative Law Judge. Any statements and briefs submitted must be received by the Administrative Law Judge before the close of the public comment period. Written material may be submitted and recorded in the hearing record for five (5) working days after the close of the public hearing. This comment period may be extended for a longer period not to exceed twenty (20) days if ordered by the Administrative Law Judge at the Hearing.

Any comments received during the comment period will be available for review at the Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota. Following the close of the comment period, the agency and interested persons will be permitted to respond to any material submitted during the comment period. Responses submitted must be filed within three (3) working days of the close of the comment period. No additional evidence may be submitted during the three-day period.

The Department of Public Safety proposes to adopt rules relating to the withdrawal and reinstatement of drivers' licenses following alcohol-or controlled-substance-related incidents. Authority for adoption of these rules is contained in Minnesota Statutes, section 169.128 and Laws of Minnesota 1985, Ch. 4. The proposed rules are included with this notice.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minnesota Statutes, section 10A.01, subdivision 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, Telephone: (612) 296-5148.

Notice is hereby given that a Statement of Need and Reasonableness is now available for review at the Department of Public Safety and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minn. Stat. § 14.115, subd. 2, the impact on small businesses has been considered in the promulgation of the proposed rules. Anyone wishing to present evidence or argument as to the effect of the rules on small business may do so. The agency's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the agency may not take any final action on the rules for a period of five (5) working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day that the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

One free copy of this notice and the proposed rules may be obtained by contacting: Thomas Van Hon, Department of Public Safety, St. Paul, Minnesota, 55155, Telephone: (612) 296-9524.

Additional copies will be available at the door on the date of the hearing.

August 19, 1985.

Paul J. Tschida,
Commissioner of Public Safety

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PROPOSED RULES

Rules as Proposed (all new material)

7503.0100 DEFINITIONS.

Subpart 1. Scope. For purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. Alcohol problem assessment. An "alcohol problem assessment" is a report prepared to evaluate a person's driving ability in relation to possible chemical abuse.

Subp. 3. Alcohol- or controlled-substance-related incident. An "alcohol- or controlled-substance-related incident" is a violation of Minnesota Statutes, section 169.121, subdivision 1; 169.123, subdivisions 2, 2a, 2b, 2c, and 4; 169.129; or 609.21, subdivision 1, clauses (2) and (3), and subdivision 2, clauses (2) and (3); Minnesota Statutes 1984, sections 169.127 and 171.245; or a violation of a statute from another state in conformity with one of these provisions.

Subp. 4. Cancellation and denial. "Cancellation and denial" is the commissioner's withdrawal of a person's driver's license and privilege to drive in Minnesota pursuant to Minnesota Statutes, sections 169.121; 171.04, clause (4), (8), or (9); 171.13, subdivision 4; or 171.14.

Subp. 5. Chemical dependency treatment. "Chemical dependency treatment" is treatment for chemical dependency by a facility licensed by the Minnesota Department of Human Services under part 9530.2800 or 9530.5300, treatment by a comparable facility, or treatment by a hospital-based treatment facility.

Subp. 6. Commissioner. "Commissioner" is the commissioner of the Department of Public Safety of the state of Minnesota, acting directly or through authorized officers and agents.

Subp. 7. Informal hearing. An "informal hearing" is the commissioner's review of driver licensure action under the procedure set forth in this chapter.

Subp. 8. Personal injury. A "personal injury" is an incapacitating injury, other than a fatal injury, which prevents the injured person from walking, driving, or normally continuing activities which he or she was capable of performing just before the accident.

Subp. 9. Revocation. "Revocation" is the commissioner's withdrawal of a person's driver's license and privilege to drive in this state for a specific period of time under Minnesota Statutes, section 169.121, 169.123, or 171.17.

Subp. 10. Special review. A "special review" is a personal conference with and examination of a driver for the purpose of evaluating the person's driving ability and possible chemical abuse following an alcohol- or controlled-substance-related incident.

Subp. 11. Sufficient cause to believe. "Sufficient cause to believe" means grounds put forth in good faith which are not arbitrary, irrational, unreasonable, or irrelevant and which make the proposition asserted more likely than not, provided the grounds are based on at least one of the following sources:

- A. written information from an identified person;
- B. facts or statements supplied by the applicant or driver;
- C. driver license and accident records;
- D. court documents and police records;
- E. facts of which the commissioner or the commissioner's employees have personal knowledge.

Subp. 12. Suspension. "Suspension" is the commissioner's temporary withdrawal of a person's driver's license and privilege to drive in this state under Minnesota Statutes, section 169.121, subdivision 8, or 171.18.

7503.0200 LICENSE SUSPENSION FOR ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. Following revocable offense. The commissioner shall suspend the driver's license or driving privilege of any person when there is sufficient cause to believe that the person committed an offense for which mandatory revocation of a driver's license is required upon conviction, unless the person's driver's license or driving privilege has been revoked for the same alcohol- or controlled-substance-related incident.

Subp. 2. Failure to complete alcohol problem assessment. The commissioner shall suspend the driver's license or driving privilege of any person who fails to complete an alcohol problem assessment as required by Minnesota Statutes, section 169.121, subdivision 8, and this chapter, or who fails to complete any action required by the assessment.

7503.0300 SUSPENSION PERIODS.

Subpart 1. Suspension period imposed for revocable offenses. The commissioner shall suspend the driver's license or driving privilege of a person who commits an offense for which mandatory revocation of a driver's license is required upon conviction for the revocation period that is imposed for conviction of the offense in Minnesota, up to a maximum period of one year.

Subp. 2. Suspension period imposed for failure to complete an alcohol problem assessment. The commissioner shall

suspend the driver's license or driving privilege of a person who fails to complete an alcohol problem assessment or any requirement imposed at the assessment for a period of 90 days or until the assessment or requirement is completed, whichever occurs first.

7503.0400 NOTICE OF SUSPENSION.

The commissioner shall notify a person of the suspension of the person's driver's license or driving privilege. The notice must be sent by first class mail to the person's address as shown on the driver license records of the Department of Public Safety.

7503.0500 HEARING FOLLOWING SUSPENSION.

The commissioner shall provide a hearing under the procedures in Minnesota Statutes, section 171.18 to any person whose driver's license or driving privilege has been suspended under Minnesota Statutes, sections 169.121, subdivision 8; 171.18; or this chapter.

7503.0600 REINSTATEMENT FOLLOWING SUSPENSION.

Except in the case of the issuance of a limited license, the commissioner shall not reinstate the driver's license or driving privilege of any person whose license or privilege was suspended under Minnesota Statutes, section 169.121, subdivision 8, or 171.18 as a consequence of an alcohol- or controlled-substance-related incident unless the following requirements have been satisfied:

- A. the suspension period must expire or the person must satisfy all conditions of suspension; and
- B. the person must pay a reinstatement fee as required by Minnesota Statutes.

7503.0700 LICENSE REVOCATION FOR ALCOHOL- AND CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. Following conviction. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person convicted under Minnesota Statutes, section 169.121, 169.129, or 609.21.

Subp. 2. Following a chemical test for intoxication or refusal to take a chemical test for intoxication. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person who violates Minnesota Statutes, section 169.123.

Subp. 3. Following a conviction reported by another state. The commissioner shall revoke the driver's license or the nonresident driving privilege of any person convicted under a statute from another state in conformity with Minnesota Statutes, section 169.121, 169.129, or 609.21.

7503.0800 REVOCATION PERIODS.

Subpart 1. Statutory periods. The commissioner shall revoke driver's licenses or nonresident driving privileges for the periods prescribed in Minnesota Statutes, sections 169.121 and 169.123.

Subp. 2. Criminal vehicular operation. The commissioner shall revoke the driver's license or driving privilege of any person convicted under Minnesota Statutes, section 609.21, subdivision 1, clause (1) or (2), or subdivision 2, clause (1) or (2) for a period of five years from the date the conviction is reported to the commissioner.

Subp. 3. Driving after revocation. The commissioner shall revoke the driver's license or driving privilege of any person convicted under Minnesota Statutes, section 169.129 for a period of 30 days, 90 days, or one year, depending on the number of convictions for violations of Minnesota Statutes, section 169.129 or 171.24 on the person's driving record during the one-year period preceding the date of the incident. The revocation shall be 30 days if there are no convictions for driving after withdrawal during the preceding year. The revocation period shall be 90 days if there is one conviction for driving after withdrawal during the preceding year. The revocation period shall be one year if there are two or more convictions for driving after withdrawal in the preceding year. A revocation ordered for a conviction under Minnesota Statutes, section 169.129 shall not run concurrently with any other revocation imposed as a consequence of the same incident upon which the revocation for conviction under Minnesota Statutes, section 169.129 is based.

Subp. 4. Out-of-state convictions. The period of revocation for incidents occurring outside this state shall be the period of revocation that would be imposed if the incident had occurred and the person were convicted in Minnesota.

Subp. 5. Personal injury or fatality. When the commissioner has sufficient cause to believe that a personal injury or fatality occurred in connection with an alcohol- or controlled-substance-related incident upon which a revocation under Minnesota Statutes, section 169.121, subdivision 4, is based, the period of revocation shall be increased as follows:

- A. for a personal injury, the additional period of revocation shall be 90 days;

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B. for a fatality, the additional period of revocation shall be six months.

Subp. 6. Revocation effective until reinstatement. In all cases the driver's license or driving privilege remains revoked until the person satisfies all conditions of reinstatement and the commissioner issues a new license or notifies the person of reinstatement.

Subp. 7. Terminating revocation periods following completion of alcohol problem assessment action. The commissioner shall terminate a revocation period in accordance with Minnesota Statutes, section 169.123, subdivision 10. The amount of the termination shall be 30 days or the length of time remaining in the revocation period, whichever is shorter. Termination of the revocation period under Minnesota Statutes, section 169.123, subdivision 10, shall not apply to persons with more than one alcohol- or controlled-substance-related incident on record or to persons who have outstanding licensure requirements, such as completion of a special review or conditions of licensure imposed by the commissioner following a special review. Termination of the revocation period applies only in the following circumstances.

A. When notified that a driver has undergone an alcohol problem assessment and that the driver is not required by the court to complete any driver improvement course, alcohol awareness program, or treatment for chemical dependency and that the driver has no identifiable chemical abuse problem, the commissioner shall terminate the revocation period. The person is not required to make an application to the commissioner under this circumstance, unless the court fails to notify the commissioner of the results of the alcohol problem assessment.

B. A person may apply for early reinstatement pursuant to Minnesota Statutes, section 169.123, subdivision 10, when a driver improvement course, an alcohol awareness program, or chemical dependency treatment is completed as required by an alcohol problem assessment. An application to the commissioner for early reinstatement shall be made in writing and accompanied by documents showing attendance and completion of a driver improvement clinic, counseling sessions, or treatment as required by a court or by the commissioner.

Subp. 8. Reducing revocation period following guilty plea. If a person whose driver's license has been revoked pursuant to Minnesota Statutes, section 169.123, and who has not previously been convicted under Minnesota Statutes, section 169.121, or whose driver's license has not previously been revoked under Minnesota Statutes, section 169.123, pleads guilty at the first opportunity and is convicted of a violation of Minnesota Statutes, section 169.121, the commissioner shall change the period of revocation to 30 days from the date of the conviction or to the length of time remaining in the revocation period, whichever is shorter.

If the guilty plea or conviction under Minnesota Statutes, section 169.121, arising out of the incident is withdrawn or vacated, the commissioner shall reinstate the original revocation period.

7503.0900 NOTICE OF REVOCATION AND ISSUANCE OF TEMPORARY DRIVER'S LICENSES.

Subpart 1. Temporary driver's licenses. Notice of revocation served by a court or by a peace officer is valid as a temporary driver's license for the same class and with the same restrictions, limitations, and certifications of the original driver's license. Notice of revocation shall not serve as a temporary driver's license if the person does not have a valid driver's license or driving privilege when the notice of revocation is served.

If the notice of revocation and temporary driver's license is issued by a court, the temporary driver's license period expires on the final day on which an appeal of the conviction can be taken from the court. If the notice of revocation and temporary driver's license is issued by a peace officer, the temporary driver's license expires on the seventh day after notice was served.

Subp. 2. Notice served by the court. Notice of license revocation is served by the court when a person is convicted of violating Minnesota Statutes, section 169.121. The commissioner shall provide forms to the court for serving the notice of revocation and the issuance of a temporary license. These forms must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, height and weight, and current residential address including street number, city, state, and zip code;

B. the date notice is served;

C. the date of the incident upon which the conviction is based;

D. the traffic citation number and court file number;

E. the length of the revocation period;

F. a statement that the person must surrender to the court all license certificates in the person's possession, unless the person is not a resident of Minnesota;

G. a statement informing the person that failing to surrender all driver's licenses may subject the person to criminal prosecution under Minnesota Statutes, sections 171.22 and 171.241, and suspension of the driver's license under Minnesota Statutes, section 171.18, clause (8);

H. a statement advising the person that all driving privileges are revoked after seven days or upon expiration of the temporary license period;

I. a statement indicating that no temporary driver's license was issued, if the person did not have valid driving privileges at the time of the incident;

J. a statement indicating that the driver's license cannot be surrendered because the license is lost, stolen, already surrendered, or otherwise unavailable; and

K. the signature of the judge issuing the revocation notice.

Subp. 3. Notice served by a peace officer. Notice of license revocation is served by a peace officer when a person is found to be in violation of Minnesota Statutes, section 169.123. The issuing peace officer shall forward to the commissioner on the same or next business day a copy of the notice of revocation together with any license certificates surrendered by the person, the peace officer's incident reports, and the implied consent advisory and peace officer's certificate. The commissioner shall provide the forms for notice of revocation and issuance of temporary licenses. These forms must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, height and weight, and current residential address including street number, city and state, and zip code;

B. the date that notice is served;

C. the date of the incident;

D. the traffic citation number;

E. the name, signature, and business telephone number of the peace officer serving the notice;

F. the reason for the revocation;

G. the length of the revocation period;

H. a statement that the person must surrender to the peace officer all driver's license certificates in the person's possession, unless the person is not a resident of Minnesota;

I. a statement advising the person that all driving privileges are revoked in seven days or upon expiration of a seven-day temporary license period;

J. a statement informing the person that failing to surrender all driver's licenses may subject the person to criminal prosecution under Minnesota Statutes, sections 171.22 and 171.241, and suspension of the driver's license under Minnesota Statutes, section 171.18, clause (8);

K. a statement indicating that no temporary license was issued, if the person did not have valid driving privileges at the time of the incident;

L. a statement indicating that the driver's license cannot be surrendered because the license is lost, stolen, already surrendered, or otherwise unavailable;

M. a statement informing the person that the person has a right to administrative and judicial review of the revocation order;

N. information explaining that an administrative review of the revocation order may be obtained by submitting a written request for review to the commissioner in accordance with Minnesota Statutes, section 169.123, subdivision 5b, and this chapter, and that judicial review may be obtained by filing a petition for judicial review within 30 days of receipt of the notice of revocation and otherwise in accordance with Minnesota Statutes, section 169.123, subdivision 5c;

O. a statement informing the person that failing to petition for judicial review in compliance with Minnesota Statutes, section 169.123, subdivision 5c, forfeits the person's right to judicial review of a revocation order under that section.

Subp. 4. Notice served by the commissioner. Notice of license revocation may be served by the commissioner when a person is found in violation of Minnesota Statutes, section 169.123, and notice is not served by a peace officer; when a person is convicted of violating Minnesota Statutes, section 169.121, and notice is not served by a court; when an additional revocation period is imposed pursuant to Minnesota Statutes, section 169.121, subdivision 4, in case of a personal injury or fatality; or when requirements imposed

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PROPOSED RULES

from a previous revocation have not been satisfied. The commissioner shall establish a form for serving notice of revocation, which must contain space for the following information and may contain other information as the commissioner deems appropriate:

A. the person's full name, date of birth, driver's license number, and current residential address obtained from the person's driver license record, including the street number, city and state, and zip code;

B. the date the notice of revocation is issued;

C. the effective date of the revocation order;

D. the reason for the revocation;

E. the length of the revocation period;

F. reinstatement requirements;

G. a demand for surrender of all license certificates issued to the person or submission of a sworn statement from the person that an outstanding certificate was lost, stolen, or destroyed;

H. a statement informing the person that the person has a right to administrative and judicial review of the revocation order under Minnesota Statutes, section 169.123;

I. information explaining that an administrative review of the revocation order issued under Minnesota Statutes, section 169.123, may be obtained by submitting a written request for review in accordance with Minnesota Statutes, section 169.123, subdivision 5b, and this chapter, and that judicial review may be obtained by petitioning for judicial review within 30 days after receiving notice of revocation and otherwise in accordance with Minnesota Statutes, section 169.123, subdivision 5c;

J. a statement informing the person that failing to petition for judicial review in compliance with Minnesota Statutes, section 169.123, subdivision 5c, forfeits the person's right to judicial review of a revocation order under that section.

Subp. 5. Notice of revocation to other states. If the driving privilege of a nonresident is revoked for a violation of Minnesota Statutes, section 169.121, 169.123, 169.129, or 609.21, the commissioner, pursuant to Minnesota Statutes, sections 169.123, subdivision 8, and 171.15, subdivision 1, shall forward a report of the revocation to the licensing authority of the nonresident's home state and to any other state in which the commissioner knows the person to hold a license.

7503.1000 WRITTEN ADMINISTRATIVE REVIEW OF LICENSE REVOCATION FOR IMPLIED CONSENT VIOLATION.

Subpart 1. Right to a written administrative review. Every person whose driver's license is revoked under Minnesota Statutes, section 169.123, has the right to an administrative review of the revocation order under the procedure outlined in this chapter. The review is final and no subsequent administrative review will be granted on the order of revocation.

Subp. 2. Procedure for requesting a written administrative review. A written administrative review of an order of revocation under Minnesota Statutes, section 169.123, is initiated by filing a written request for review with the commissioner at a driver evaluation office of the Department of Public Safety. The driver evaluation offices provide forms for requesting administrative review, and the request for review must contain the following information:

A. the person's full name, date of birth, and driver's license number; and

B. a written statement of the factual basis upon which the person seeks to have the revocation rescinded.

Subp. 3. Performance of administrative review. Upon receipt of a request for an administrative review, the commissioner shall review the submitted statement together with all the information upon which the order of revocation was based. The commissioner may seek additional written information from the person requesting the review or from any agency or person believed to possess information relating to the facts underlying the order of revocation. Written findings will be reported to the person by first class mail within 15 days after the commissioner received the request for administrative review.

Subp. 4. Personal appearance. A person requesting administrative review of a revocation order under Minnesota Statutes, section 169.123, shall also be granted a personal appearance with the commissioner. The person must request a personal appearance by filing a written request within five business days after the commissioner received the request for a written review, or by personally appearing at a driver evaluation office. Personal appearances are held without appointment during regular business hours at the driver evaluation office of the Minnesota Department of Public Safety in Saint Paul and may also be scheduled at other offices throughout the state. A person electing to make a personal appearance shall have the results of the administrative review reported within 15 days following the date the personal appearance was held or scheduled.

Subp. 5. Scope and standard of review. The scope of an administrative review of a revocation order under Minnesota Statutes, section 169.123, is limited to the issue of the validity of the order of revocation. Upon reviewing the evidence, the commissioner shall sustain the order if there is sufficient cause to believe that the revocation is authorized by law. If the commissioner finds that there is not sufficient cause to believe the revocation is authorized by law, the order shall be rescinded.

Subp. 6. Written administrative review distinguished. Administrative review of a revocation order under Minnesota Statutes, section 169.123, is separate and distinct from review by the chemical abuse review panel or review by the commissioner in an informal hearing procedure.

7503.1100 INFORMAL HEARING FOLLOWING LICENSE REVOCATION.

The commissioner shall grant an informal hearing to any person whose driver's license or driving privilege has been revoked as a consequence of an alcohol- or controlled-substance-related incident. No informal hearing will be granted to review the validity of an order of revocation under Minnesota Statutes, section 169.123.

7503.1200 REINSTATEMENT FOLLOWING LICENSE REVOCATION.

Subpart 1. Reinstatement conditions. Except in the case of the issuance of a limited license, the commissioner shall not reinstate a driver's license or nonresident driving privilege after revocation under Minnesota Statutes, section 169.121, 169.123, or 171.17, unless all of the following conditions have been satisfied:

- A. The revocation period must expire.
- B. The person must pay a reinstatement fee as required by Minnesota Statutes.
- C. The person must apply for a new license and pay the application fee for the class of license involved.
- D. The person must pass the driver's license examination required for issuance of an original license.

E. If the incident is a second conviction under Minnesota Statutes, section 169.121, the person must submit a certification that the court-ordered treatment or rehabilitation has been completed.

Subp. 2. Notice of reinstatement. The commissioner shall notify a person whose period of revocation has expired. The notice shall be sent by first class mail, and shall contain a statement informing the person of the conditions of reinstatement and the consequences of driving prior to reinstatement.

7503.1300 LICENSE CANCELLATION AND DENIAL FOLLOWING ALCOHOL- OR CONTROLLED-SUBSTANCE-RELATED INCIDENTS.

Subpart 1. Failure to complete special review action. The commissioner shall cancel and deny the driver's license and driving privilege of any person who fails to complete a special review or who fails to complete a driver improvement course, alcohol awareness program, or chemical dependency treatment as prescribed in a special review, before the time for completion of the review or action has expired.

Subp. 2. Multiple alcohol- or controlled-substance-related incidents. The commissioner shall cancel and deny the driver's license or the driving privilege of any person who has incurred three alcohol- or controlled-substance-related incidents within the past five years or who has incurred three such incidents and a special review had been conducted prior to the third incident, or who has four or more such incidents on record.

Subp. 3. Consumption of alcohol or a controlled substance after completing chemical dependency rehabilitation. The commissioner shall cancel and deny the driver's license or driving privilege of any person whose license or privilege has been reinstated after completion of rehabilitation for chemical dependency when the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance since the date of reinstatement.

7503.1400 NOTICE OF LICENSE CANCELLATION AND DENIAL.

The commissioner shall notify a person of license cancellation and denial by first class mail. The notice must set forth the reason for the cancellation and denial and the conditions for reinstatement of the driver's license or privilege to drive.

7503.1500 INFORMAL HEARING FOLLOWING CANCELLATION AND DENIAL.

The commissioner shall grant an informal hearing to review the order of cancellation and denial to any person whose license has been cancelled or whose application for a license has been denied.

7503.1600 REINSTATEMENT FOLLOWING LICENSE CANCELLATION.

The commissioner shall deny the application for a driver's license, including the application for a limited license, to any person whose license has been canceled unless the following conditions have been satisfied:

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PROPOSED RULES

- A. No revocation or suspension of the person's driver's license or driving privilege is outstanding.
- B. The person must complete a special review and any special review action that is required.
- C. If the incident is the third alcohol- or controlled-substance-related incident within a five-year period, or the third such incident on record and a special review was conducted after the second incident, or if the person has four or more such incidents on record, the person must complete rehabilitation for chemical dependency.

7503.1700 CHEMICAL DEPENDENCY REHABILITATION.

Subpart 1. When applicable. A person must complete rehabilitation for chemical dependency when the person's driver's license or driving privileges have been canceled and denied following involvement in three or more alcohol- or controlled-substance-related incidents within five years, when a special review has been previously conducted and there are three alcohol- or controlled-substance-related incidents on record, or when there are four or more incidents on record.

Subp. 2. Rehabilitation requirements. The person must meet the following requirements in order to complete rehabilitation for chemical dependency:

- A. The person must successfully complete treatment for chemical dependency, including any aftercare program recommended by the treating facility and submit evidence of chemical dependency treatment to the commissioner.
- B. The person must attend an ongoing recovery program such as Alcoholics Anonymous and submit evidence of attendance to the commissioner.
- C. The person must abstain from the use of alcohol and the use of controlled substances, attest to such abstinence for a period of time prescribed in this chapter, and furnish evidence of abstinence for the required period to the commissioner.
- D. The person must appear for a chemical dependency rehabilitation interview at a driver evaluation office of the Minnesota Department of Public Safety.

Subp. 3. Evidence of chemical dependency treatment. Evidence of chemical dependency treatment submitted to the commissioner shall consist of written material supplied by the treating facility showing the starting and ending dates of treatment and completion of primary and post-primary treatment, including a discharge summary with a prognosis and any recommended aftercare program. If the prognosis is not favorable or if the person fails to complete an aftercare program recommended by the treating facility, the commissioner shall reinstate the person's driver's license and driving privilege only following completion of an abstinence period of one year in addition to the abstinence periods prescribed in part 7503.1700, subpart 5.

Subp. 4. Abstinence documentation. Every person applying for reinstatement after chemical dependency rehabilitation must sign a statement acknowledging the person's awareness that abstinence from the use of alcohol and controlled substances is a condition of licensure. The commissioner shall provide a form to the person which contains the acknowledgment as well as an advisory that the commissioner shall cancel and deny the driver's license and driving privilege of the person if the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance, whether or not the circumstances involve the operation of a motor vehicle. The restriction must be placed on the person's driver's license and driving record.

To substantiate abstinence the person must sign a statement, on the form provided by the commissioner, attesting to the date on which alcohol or a controlled substance was last consumed. The person also must furnish at least five supporting statements from unrelated persons to the commissioner. The statements must be signed and include the full name, address, and telephone number of the person filing the statement, information as to how often they will be in contact with the person, what relationship they hold to the person, the period of time that the person can attest to abstinence, and a pledge to report promptly to the commissioner in writing any use of alcohol or a controlled substance by the person.

Subp. 5 Abstinence periods. Evidence of abstinence furnished by the person must substantiate a period of abstinence as provided in this chapter, and rehabilitation for chemical dependency is not complete if the commissioner has sufficient cause to believe that the person has not abstained from the use of alcohol or a controlled substance for the period claimed.

For a person who has not previously undergone rehabilitation for chemical dependency, the following abstinence periods apply:

Number of alcohol- or controlled-substance-related incidents	Abstention period
3 or 4	1 year
5	2 years
6	3 years
7 or more	4 years

For a person who has once completed chemical dependency rehabilitation, the following periods apply:

Number of alcohol- or controlled-substance-related incidents	Abstention period
3 or 4	2 years
5	4 years
6	6 years
7 or more	8 years

If the person is incarcerated or lives in a controlled environment, such as a halfway house, or if the person is being administered medication for alcoholism, such as Antabuse, the length of time the person is under these conditions shall count as half-time towards completion of the abstention periods required above.

Subp. 6. Consequences of using alcohol or a controlled substance after completing rehabilitation. The commissioner shall cancel and deny the driver's license and driving privilege of any person when there is sufficient cause to believe that the person has consumed alcohol or a controlled substance after completing rehabilitation. The commissioner shall not reinstate the driver's license or driving privilege of any person who has been reinstated following a second rehabilitation for chemical dependency if the commissioner has sufficient cause to believe that the person has consumed alcohol or a controlled substance since the date that the second rehabilitation was completed. This subpart does not apply to the consumption of a controlled substance in accordance with a medical prescription.

Subp. 7. Chemical dependency rehabilitation interview. A person seeking reinstatement following rehabilitation for chemical dependency shall appear in person for an interview at a driver evaluation office of the Minnesota Department of Public Safety for the purpose of discussing the effectiveness of rehabilitation on the person's driving ability and problem of chemical abuse. The person shall schedule the interview in advance and must provide the commissioner with all written material required for chemical dependency rehabilitation under this chapter before the date on which the interview is scheduled.

7503.1800 ISSUANCE OF LIMITED LICENSES.

Subpart 1. Authority. Pursuant to Minnesota Statutes, section 171.30, the commissioner shall issue a limited license following a revocation or suspension in connection with an alcohol- or controlled-substance-related incident when the conditions of issuing a limited license have been satisfied.

Subp. 2. Persons not eligible for a limited license. The commissioner shall not issue a limited license to any person whose driver's license or driving privilege has been canceled and denied under Minnesota Statutes, section 171.14. No limited license shall be issued to any person incurring a second alcohol- or controlled-substance-related incident within five years or to any person with three alcohol- or controlled-substance-related incidents on record unless one-half of the revocation period has expired, except that licenses shall be issued as required by Minnesota Statutes, section 171.30, subdivision 3, to class A or class B license holders authorizing the person to drive vehicles whose operation is permitted only under a class A or class B license when such a license has been suspended under Minnesota Statutes, section 171.18, or revoked under Minnesota Statutes, section 171.17, for a violation of the Highway Traffic Regulation Act committed in a private passenger vehicle.

Subp. 3. Conditions of issuance of a limited license. Before a limited license may be issued the following conditions must be satisfied:

- A. The person must apply for a new license and pay the application fee for the class of license involved.
- B. The person must pass the driver license examination required for issuance of an original license.
- C. The person must pay a reinstatement fee as required by Minnesota Statutes.
- D. The person must appear personally or may appear by telephone or mail at a driver evaluation office of the Department of Public Safety to request a limited license.
- E. The person must demonstrate a need for a limited license. A limited license must be issued as needed for employment or attendance at chemical dependency treatment, counseling programs, or post-secondary education. A person requesting a limited license may demonstrate the need for a limited license using letters from the person's employer, proof of attendance at a chemical dependency treatment or counseling program, or proof of attendance at a post-secondary institution of education. The commissioner shall consider the particular circumstances and needs of the individual before issuing a limited license.

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PROPOSED RULES

The commissioner shall waive items A, B, and C if the person has filed a petition for judicial review and has furnished a copy of the petition to the commissioner. If the revocation is sustained on judicial review, the requirements must be met prior to reinstatement of driving privileges.

If a limited license is issued, the conditions need not be repeated when seeking reinstatement, but any additional conditions must be satisfied.

Subp. 4. Restrictions and limitations. The commissioner shall prescribe restrictions on the time and use of a limited license as provided in Minnesota Statutes, section 171.30, subdivisions 1 and 3.

Subp. 5. Informal hearing following denial of limited license application. The commissioner shall grant any person an informal hearing for the purpose of reviewing a decision not to issue a limited license.

7503.1900 INFORMAL HEARING PROCEDURE.

Informal hearings held pursuant to part 7503.1100, 7503.1500, or 7503.1800, subpart 5, may be held in writing, by telephone, or by personal appearance. The commissioner shall give a prompt decision to the person, and shall issue a written decision to the person upon request.

7503.2000 ALCOHOL PROBLEM ASSESSMENTS REQUIRED BY THE COMMISSIONER.

Subpart 1. Alcohol problem assessment required after 0.07 test. When an evidentiary test administered under authority of Minnesota Statutes, section 169.123 discloses an alcohol concentration of 0.07 percent or more, the result must be reported to the commissioner. If a second test result occurs within two years, the commissioner shall require the person to appear for an alcohol problem assessment. The commissioner shall notify the person by first class mail that the assessment is required.

Subp. 2. By whom conducted. An alcohol problem assessment conducted under Minnesota Statutes, section 169.121, subdivision 8, must be conducted by an agency approved by the county or municipal court as outlined in Minnesota Statutes, section 169.126, or conducted by the Saint Paul driver evaluation office of the Minnesota Department of Public Safety or by another driver evaluation office at a scheduled time.

Subp. 3. Suspension for failure to complete assessment. If a person required to submit to an alcohol problem assessment under Minnesota Statutes, section 169.121, subdivision 8, fails to submit an assessment report to the commissioner or fails to appear for an assessment within 30 days after notification that an assessment is required, the commissioner shall suspend the driver's license or driving privilege of that person. If any treatment or action is required from the assessment, the commissioner shall establish a deadline based on the type of action or treatment required and the particular needs of the person, provided that the deadline shall not be less than 60 days from the date of the assessment. If the action or treatment is not completed before the established deadline, the commissioner shall suspend the driver's license or driving privilege of the person for the period of time prescribed in part 7503.0300, subpart 2. The commissioner shall not suspend any person's driver's license or driving privilege for failing to complete an assessment required exclusively under section 169.126.

Subp. 4. Cost of the assessment. The commissioner shall charge persons a fee for an alcohol problem assessment conducted by the Division of Driver and Vehicle Services in the amount of the cost of the assessment to the division.

7503.2100 SPECIAL REVIEW.

Subpart 1. When required. When a person incurs two alcohol- or controlled-substance-related incidents within five years or has three or more incidents on record, the commissioner shall require a person to undergo a special review of the person's driving and chemical dependency problems. The commissioner will notify the person by enclosing a notice to undergo a special review with the notice of revocation or by sending by first class mail a separate notice to undergo a special review. The review will be held at a driver evaluation office of the Department of Public Safety or at other locations throughout the state. A personal appearance is not required if the person resides out-of-state and a personal appearance in Minnesota would impose an undue hardship.

Subp. 2. Special review action. The commissioner shall determine at a special review whether the person must complete a driver improvement course, an alcohol awareness program, or chemical dependency treatment. If the action is not completed by the deadline established at the special review, the commissioner shall cancel and deny the person's driver's license and driving privilege under Minnesota Statutes, section 171.13 until the action has been completed.

7503.2200 CHEMICAL ABUSE REVIEW PANEL.

Subpart 1. Establishment and composition. A chemical abuse review panel is established to review the type of chemical dependency treatment imposed by the commissioner or a diagnosis of chemical abuse accepted by the commissioner arising from an alcohol problem assessment or a special review. Members of the panel shall be certified chemical dependency counselors or other health care professionals experienced in the area of chemical abuse and shall be selected by the commissioner based on the recommendations of the Department of Human Services.

Subp. 2. Procedure. Applications for review by the chemical abuse review panel will be governed by the following procedures:

A. A request for review by the chemical abuse review panel must be submitted to the commissioner in writing within 30 days from the date of the special review or alcohol problem assessment that is the subject of the person's complaint. No personal appearance will be granted before the chemical abuse review panel.

B. The commissioner shall arrange for a "review date," not less than ten nor more than 30 days from receipt of the request for review, and shall inform the person by first class mail of the review date.

C. Four copies of any written material the person wishes to have considered by the chemical abuse review panel must be submitted to the commissioner not less than ten days before the review date.

D. The commissioner may submit written materials in addition to the record of the special review or alcohol problem assessment for consideration by the chemical abuse review panel not less than ten days before the review date, provided that copies of any additional materials are sent to the person requesting the review.

E. Both parties shall have the right to submit additional written material for purposes of rebuttal until the review date.

F. On the review date, all written material submitted by both parties will be transmitted to the chemical abuse review panel.

G. After receiving all written materials, the chemical abuse review panel shall recommend an alternative form of chemical dependency treatment or recommend acceptance of a different diagnosis to the commissioner if the person establishes that the type of treatment or diagnosis is not appropriate or correct under the individual circumstances of that person's case. The chemical abuse review panel shall recommend to the commissioner that the type of treatment not be changed or that a diagnosis other than the diagnosis which is contested not be accepted, if the person does not establish that the type of treatment or diagnosis is not appropriate or correct under the individual circumstances of that person's case.

H. The chemical abuse review panel shall report its recommendations to the commissioner within 15 days of submission of the written materials by the commissioner.

I. The commissioner shall promptly report the recommendations of the chemical abuse review panel to the person. The commissioner shall decide whether to follow the recommendations of the panel and shall promptly report that decision together with a statement of reasons for the decision to the person. Notice of the commissioner's decision shall contain a statement describing the person's right to challenge the final decision in district court.

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ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Board of Animal Health

Adopted Rules Relating to Importation of Bison and Elk

The rule proposed and published at *State Register*, Volume 9, Number 36, pages 1964-1965, March 4, 1985 (9 S.R. 1964) is adopted as proposed.

Department of Commerce

Adopted Rules Relating to the Liquor Liability Assigned Risk Plan

The rules proposed and published at *State Register*, Volume 9, Number 52, pages 2735-2742, June 24, 1985 (9 S.R. 2735) are adopted as proposed.

Department of Commerce

Adopted Rules Relating to the Market Assistance Plan for Liquor Liability Assistance

The rules proposed and published at *State Register*, Volume 9, Number 52, pages 2735-2742, June 24, 1985 (9 S.R. 2735) are adopted as proposed.

Department of Human Services

Adopted Rules Relating to Licensing Fees For Day Care and Residential Facilities and Agencies

The rules proposed and published at *State Register*, Volume 9, Number 41, pages 2252-2255, April 8, 1985 (9 S.R. 2252) are adopted with the following modifications:

Rules as Adopted

9545.2000 DEFINITIONS.

Subp. 14. Residential facility. "Residential facility" means any facility, public or private, which provides one or more persons with a 24-hour per day substitute for care, food, lodging, training, education, supervision, habilitation, rehabilitation, and treatment they need, but which for any reason cannot be furnished in the person's own home. "Residential facility" does not include state hospitals or other state-operated residential facilities.

Subp. 15. Waiver. "Waiver" means written permission by the commissioner for an operator to depart from the provisions of ~~parts part 9545.2020 to 9545.2030.~~

9545.2020 LICENSING FEE FORMULA.

Subpart 1. General formula. ~~Beginning July 1, 1985.~~ The department shall charge the following annual fees for issuing and renewing licenses:

Subp. 2. Exceptions. The following are exceptions to the fees established in subpart 1:

A. The licensing fee for group day care centers licensed under parts 9545.0510 to 9545.0670 shall be one-half of the ~~licensing~~ base fee in subpart 1, item A, plus a licensed capacity fee of \$1.50 multiplied by the licensed capacity of each day care center. ~~The \$1.50 fee shall increase to \$2 beginning July 1, 1987, \$2.50 beginning July 1, 1989, and \$3 beginning July 1, 1991.~~

9545.2030 LICENSING FEE PAYMENT.

Subp. 3. Noncompliance. ~~The department shall not take any action on an operator's~~ An application for a license or license renewal is not complete and no license shall be issued until the licensing fee is paid. If an operator requests a waiver under part 9545.2040, the application for a license or license renewal is not complete and no license shall be issued until the commissioner has acted on the request and the licensing fee approved by the commissioner has been paid.

9545.2040 WAIVER.

Subpart 1. Written request for waiver. An operator may request a waiver from the licensing fee formula ~~or payment~~ established in ~~parts part 9545.2020 to 9545.2030.~~ The request for a waiver must be submitted to the department in writing and must accompany an operator's application for issuance or renewal of a license and the licensing fee determined under parts 9545.2020 and 9545.2030, subpart 2. The request must include the following information:

- A. the section or sections of ~~parts part 9545.2020 to 9545.2030~~ with which the operator cannot comply;
- B. the amount of the licensing fee requested to be waived;
- C. the reasons why compliance with the specified section or sections would cause financial hardship; and
- D. documentation supporting the information in item C.

Subp. 2. Standard for granting waiver. The commissioner may waive part or all of the licensing fee. A waiver may be granted only if the operator has shown that financial hardship to the operator or facility or agency would occur from strict compliance with ~~parts part 9545.2020 to 9545.2030.~~

Subp. 3. Notice of decision. The commissioner shall grant or deny a request for a waiver and mail a written decision to the operator ~~within 30 days after the request for waiver is received.~~ The written decision must accompany the commissioner's decision to approve or deny the license application. If the commissioner denies a request, the written decision must inform the operator of the reason or reasons for the denial. If the commissioner grants the request, the licensing fee submitted with the request shall be returned to the operator with instructions for submitting the fee approved by the commissioner.

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OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Metropolitan Council

Revised Review Schedule: Amendment to Solid Waste Management Development Guide/Policy Plan

The Minnesota Waste Management Act requires the Metropolitan Council to revise its Metropolitan Development Guide/Policy Plan on Solid Waste Management to address certificate of need standards. Metropolitan Council review of this document is in progress. Amendments currently being proposed deal with the inclusion of procedures and standards for issuing certificates of need for new land disposal capacity for mixed municipal solid waste.

The following is the final schedule for review of the amendments. The only changes from the previously published schedule are the public hearing date and the date on which the hearing record closes.

- | | |
|--------------------|--|
| August 20, 1985 | Metropolitan Solid Waste Management Advisory Committee approves draft amendments and recommends public hearing date. |
| August 28, 1985 | Metropolitan Council Environmental Resources Committee approves draft amendments and recommends public hearing date. |
| September 12, 1985 | Metropolitan Council approves draft amendments and sets public hearing date. |
| October 16, 1985 | Public hearing. |
| October 30, 1985 | Hearing record closes. |
| November 12, 1985 | Solid Waste Management Advisory Committee reviews hearing report and recommends adoption of final amendments. |
| November 20, 1985 | Environmental Resources Committee reviews hearing report and recommends adoption of final amendments. |
| December 5, 1985 | Metropolitan Council adopts final amendments. |

A subsequent notice of public hearing will be published. If you have questions regarding the schedule or amendments, call Carl Michaud of the Council's Parks and Environmental Planning staff at 291-6579.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is September 24, 1985.

WATER RESOURCES BOARD LOCAL ADVISORY COMMITTEE has 15 vacancies open for persons representing counties, soil and water conservation districts, municipalities, townships and persons interested in water planning. The committee shall advise the Water Resources Board in the process of developing rules and information and education program to implement the Comprehensive Local Water Management Act. Members are appointed by the Water Resources Board. Members received expenses only. For specific information contact the Water Resources Board Local Advisory Committee, 500 Lafayette Rd., St. Paul 55146; (612) 296-2840.

BOARD OF PSYCHOLOGY has 1 vacancy open for a public member. The board examines and licenses psychologists; investigates complaints. Members are appointed by the Governor. Members must file with Ethical Practices Board. Monthly meetings. For specific information contact the Board of Psychology, 717 Delaware St. S.E., Mpls: 55414; (612) 623-5419.

ADVISORY TASK FORCE ON THE REGULATION OF PSYCHOTHERAPISTS has 13 vacancies open for the following members:

1. a social worker recommended by the Coalition for the Legal Regulation of Social Workers;
2. a chemical dependency counselor recommended by the Institute for Chemical Dependency Professionals in Minnesota;

3. a marriage and family therapist recommended by the Upper Midwest Association for Marriage and Family Therapy;
4. a counselor recommended by the Minnesota Association for Counseling and Development;
5. two public members knowledgeable about psychotherapy or the regulation of occupations and professions; and
6. up to seven additional members who have knowledge expertise in the procedures and issues related to the regulation of occupations and professions.

The task force shall study and report to the Commissioner of Health and the legislature on the need for regulation of currently unregulated occupations, professions and individuals engaging in psychotherapy. Members are appointed by the Commissioner of Health. Members receive expenses only. For specific information contact the Advisory Task Force on the Regulation of Psychotherapists, Norman Hanson, Dept. of Health, 717 Delaware St. S.E., Mpls. 55440; (612) 623-5443.

MINNESOTA COMPREHENSIVE HEALTH ASSOCIATION BOARD OF DIRECTORS has 2 vacancies open for public members. The board of directors shall govern the activities of the Minnesota Comprehensive Health Association which provides basic health insurance coverage to persons in Minnesota unable to obtain coverage through the open market. Members are appointed by the Governor. Members receive compensation for meals and mileage. Quarterly meetings. For specific information contact the Minnesota Comprehensive Health Association Board of Directors, John Apitz, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

MARKET ASSISTANCE PROGRAM COMMITTEE-LIQUOR LIABILITY has 12 vacancies open for the following members: a) 4 members representing casualty insurance companies; b) 2 members who are surplus lines agents or brokers; c) 2 members who are insurance agents; d) 2 members from the liquor industry; e) 2 public members. The committee is established to assist liquor licensees in obtaining liquor liability insurance coverage. Members are appointed by the Commissioner of Commerce. Members receive no compensation or per diem. For specific information contact the Market Assistance Program Committee—Liquor Liability, John Apitz, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

MINNESOTA AUTOMOBILE INSURANCE PLAN GOVERNING COMMITTEE has 1 vacancy open for a public member. The committee shall direct the operation of the Minnesota Auto Insurance Plan which provides for the placement of insurance for drivers and vehicle owners who are unable to obtain coverage in the open market. The public member is appointed by the Governor. Meetings scheduled every other month. Members receive no compensation or per diem. For specific information contact the Minnesota Automobile Insurance Plan Governing Committee, John Apitz, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

MINNESOTA AUTOMOBILE ASSIGNED CLAIMS PLAN GOVERNING COMMITTEE has 2 vacancies open for public members. The committee shall govern the operations of the Minnesota Automobile Assigned Claims Plan in providing no-fault basic economic loss benefits to eligible recipients as provided under Minnesota Statutes 65B.64. Public members are appointed by the Governor. Members receive no compensation or per diem. Meeting scheduled annually in February. For specific information contact the Minnesota Automobile Assigned Claims Plan Governing Committee, John Apitz, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

MINNESOTA WORKERS COMPENSATION INSURERS' ASSOCIATION (RATING ASSOCIATION) has 2 vacancies open for employer representatives. The association oversees the administration of the Minnesota Workers Compensation rating, statistical reporting, and policy administration systems. The Commissioner of Commerce is the appointing authority. Members receive no compensation or per diem. Monthly meetings in Mpls. For specific information contact the Minnesota Workers Compensation Insurers' Association (Rating Association), John Apitz, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612) 297-1118.

MINNESOTA OFFICE ON VOLUNTEER SERVICES ADVISORY COMMITTEE has 1 vacancy open for a member who resides in ROC Region 6W. The committee shall work with public and private sector organizations to promote volunteerism by effectively coordinating and channeling volunteer action. The committee is to advise and make recommendations to the Governor and Director on program directions and policy issues relating to M.O.V.S. Members are appointed by the Commissioner of Administration. Members are reimbursed for expenses; 3 to 5 meetings per year at the State Capitol Complex. For specific information contact the Minnesota Office on Volunteer Services Advisory Committee, 500 Rice St., St. Paul 55155; (612) 296-4731.

POLLUTION CONTROL AGENCY has 1 vacancy open for a member. The agency develops and implements programs to preserve and enhance the air, water and land resources of the state; adopts and enforces rules and regulations; issues permits to pollution sources. Members are appointed by the Governor and confirmed by the Senate. Members must file with Ethical Practices Board; monthly meetings. Members receive \$35 per diem plus expenses. For specific information contact the Pollution Control Agency, 1935 W. County Rd. B-2, Roseville 55113; (612) 296-7373.

OFFICIAL NOTICES

Teachers Retirement Association

Meeting Notice, Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Wednesday, September 18, 1985, at 9 a.m. in Room 302, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

State Council on Vocational Technical Education

Notice of Meeting

The State Council on Vocational Technical Education will meet at 8:30 a.m., on Tuesday, September 10, 1985 in Conference Room A at Spring Hill Conference Center, Wayzata, Minnesota. The public is welcome. Inquiries regarding meetings of The Council may be directed to the Council Offices at 612/377-6100.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration General Services Bureau

Request for Proposals for a Food Service Management Contract

The Department of Administration is requesting proposals for a five-year food service contract for the five office building cafeterias located in the Capitol Complex in Saint Paul. The contract shall have a five year term and be in effect from November 1, 1985 to October 31, 1990. This contract has an estimated value of \$1,300,000.

Respondents are to project the total costs of their food services, and to detail the quality and quantity of items in their menu cycles.

A Request for Proposals is to be obtained by calling or writing:

James L. Ware
Department of Administration
50 Sherburne Avenue, Room G-25
Saint Paul, Minnesota 55155
Telephone: (612) 296-9901

Proposal responses must be submitted no later than 4:30 p.m. on October 1, 1985.

**Department of Administration
Procurement Division**

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
Sch. 93-H 26-071-15786	Heating Oil—Heavy Scientific Equipment	Various Mankato State University	Various Mankato	Contact buyer Contact buyer
04-131-29222 79-000-49276- 1821	Transit of Grain Samples County Maps	Agriculture Transportation	Minneapolis St. Paul	Contact buyer Contact buyer
55-000-92395- 1785	Household Report Form	Human Services	St. Paul	Contact buyer
Contract	Radiator Tanks, Cores and Supplies	MN Correctional Facility	Stillwater	\$10,000-15,000
29-003-08711	Purchase of Photocopy Machine	Natural Resources Regional Headquarters	Brainerd	Contact buyer
Various 02307-47984 21200-10535 26071-15567	Information/Hazard Hotline Service Air Filter System Scanner with Software Digital Microvax	Various Plant Management Economic Security Mankato State University	Various St. Paul St. Paul Mankato	Contact buyer Contact buyer Contact buyer Contact buyer
26071-15568	Memory Module	Mankato State University	Mankato	Contact buyer
12500-84861 26-071-15768	Purchase of Computer Purchase of Photocopy Machine	Health Mankato State University	Minneapolis Mankato	Contact buyer Contact buyer
Sch. 93 26-073-18094	Light Heating Fuel (#1 & #2) Carpeting Only—No Installation	Various St. Cloud State University	Various St. Cloud	Contact buyer Contact buyer
26-071-15836	Reamplifier System	Mankato State University	Mankato	Contact buyer
26-071-15860	Proteam II	Mankato State University	Mankato	Contact buyer
26-071-15796	Gas Chromotography	Mankato State University	Mankato	Contact buyer
26-071-15817	Meter/Plotter	Mankato State University	Mankato	Contact buyer
12-400-87204 02-520-46152	Gas Chromotograph Autosampler 3M Tartan Plates	Health Administration— Printing & Mailing	Minneapolis St. Paul	Contact buyer Contact buyer
26-137-03447	Purchase of Memory Expansion	Mankato State University Computer Services	Mankato	Contact buyer
02-310-14122	Prison Hinges & Screws	MN Correctional Facility	Oak Park Heights	Contact buyer
39-000-03868 Contract	Addendum #1—Phone System Hydraulic Motors	Governor's Office Transportation	St. Paul Various	Contact buyer \$15,000-20,000
27-144-48002	Addendum #1—Van	Itasca Community College	Grand Rapids	Contact buyer
26-137-03446	Purchase of Protocol Converter	Mankato State University	Mankato	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
34-000-04785 & 04786	Lease/Purchase Word Processing System	Housing Finance Agency	St. Paul	Contact buyer
Rebid Contract 55-103-03582	Telephone Equipment Elevator Maintenance Service	Various Human Services—Moose Lake Hospital	Various Moose Lake	Contact buyer Contact buyer
Contract	Caterpillar Diesel Engine Repair Parts	Various	Various	\$20,000-25,000
22-400-00948-2383	Travel News Newsletter	Energy & Economic Development—Tourism	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Energy and Economic Development Governor's Rural Development Council

Request for Proposals to Produce the Council's 1985 Annual Report

The Minnesota Department of Energy and Economic Development/Governor's Rural Development Council (MN DEED/GRDC) is requesting proposals from qualified individuals interested in working with MN DEED/GRDC to produce fiscal year 1985's Annual Report outlining GRDC's activities.

The Annual Report should be completed within approximately four months from the date a contract is executed, in order for it to be presented to the Legislature in its 1986 session. Proposals are being requested to complete the following major activities:

- A. Update Narrative and Financial Data
- B. Write New Material as Needed
- C. Edit and Design the Piece
- D. Act as Fiscal Agent as Necessary
- E. Work with the State Printer

It is estimated that the cost of this activity need not approach but shall not exceed \$12,000. Proposals should be received by MN DEED/GRDC no later than 4:30 p.m. Tuesday, September 23, 1985. The formal Request for Proposals document may be requested and inquiries should be directed to:

Jane Stevenson
Governor's Rural Development Council
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612) 296-3993

Department of Energy and Economic Development Policy Analysis Division

Request for Proposals for Graphic Design Services

The Policy Analysis Division of the Department of Energy and Economic Development is requesting proposals from design studios for a 150 page technical report, including statistical tables and approximately 60 charts and graphs. Contractors must be available to begin work immediately and must be able to provide quick turn-around.

Up to \$22,000 is available for this project. Proposals should state time and cost estimates for each phase of work. To be considered, *samples of large reports must be included.*

Contractors must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be

obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

All questions related to this notice should be directed to:

Elsa Larson
Art Director
(612) 296-1880

All proposals must be submitted no later than 4:00 p.m., September 20, 1985, to:

Lee W. Munnich, Jr.
Assistant Commissioner
Policy Analysis Division
Minnesota Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Department of Health Health Resources Division

Request for Proposals for a Study of Transitional Care Services in Minnesota

The Minnesota Department of Health is seeking proposals for consultant services to study the nature and extent of "transitional care" services or other sub-acute inpatient services provided in hospitals. This study is the result of a legislative mandate to the Department to submit a report to the Legislature by February 1, 1986. The report is to contain recommendations for legislative action that address the following: the nature and extent of these services; how services are reimbursed; the impact of these services on the long-term care system; and the costs, quality and appropriateness of providing these services in hospitals.

The proposed contract has been divided into two phases. The first phase will include the development of the legislative report and accompanying recommendations. This phase will concentrate on a clarification of the problem, a description of the extent and nature of the services currently being provided, how these services interrelate with the continuum of care currently available in Minnesota's health care system; and the appropriate policy role of the State in this area.

If required, the second phase will be initiated at the discretion of the Department. This phase will focus on the results of legislative action and implementation of those actions. The contractor will be expected to be available for both phases of the project.

Length of project:	Phase I —	October 1, 1985-March 31, 1986
	Phase II—	April 1, 1986-June 30, 1986
Estimated Cost:	Phase I —	\$40,000 to \$50,000
	Phase II—	\$25,000 to \$35,000

Submission Deadline: No later than 4 p.m., September 20, 1985.

To obtain a copy of the formal Request for Proposal document, contact:

Janet G. Brodahl, Director, or
H. Michael Tripple, Assistant Director
Division of Health Resources
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
Telephone: (612) 623-5440

Metropolitan Council

Request for Proposals on Travel Modeling Procedures

The Metropolitan Council solicits proposals for revising its travel modeling procedures. Review of the Twin Cities travel demand forecasting process has identified the need to review and possibly revise the zonal allocation procedure for socio-economic data, trip generation models, and trip distribution models.

STATE CONTRACTS

All proposals received on or before September 25, 1985 at 5 p.m. will be considered by the Council. Businesses owned and operated by minorities, women and small businesses are encouraged to submit proposals. Copies of the request for proposal can be obtained by contacting the Metropolitan Council, 300 Metro Square Building, 7th and Robert Streets, St. Paul, Minn. 55101, Attention: Stephen Alderson, 612 291-6337.

Pollution Control Agency Office of Planning and Review

Request for Proposals to Assist in Preparing an Environmental Impact Statement

The Minnesota Pollution Control Agency wishes to retain a consultant to assist in the preparation of an environmental impact statement (EIS) on the proposed Pentair/Minnesota Power paper mill project in Duluth, Minnesota. A mill with a capacity of 230,000 tons per year of salable paper is proposed to be constructed along with the reconstruction of units 3 and 4 of the existing M.L. Hibbard Steam Electric Station to burn coal and wood wastes. A draft EIS is to be completed by January, 1986, with the final IES to be done by April, 1986.

An amount of \$120,000 is available for EIS consultant services for the project; however, a detailed analysis of the environmental impacts and mitigation for most areas of concern will be provided by the proposers. Time will be of the essence in the review of information provided by the proposers and in the preparation of the draft and final EIS documents.

Copies of Request for Proposals and the scoping environmental assessment worksheet on the project are available from:

Craig N. Affeldt, Project Manager
Office of Planning and Review
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Proposals must be received by 4:30 p.m. on September 23, 1985, or three weeks from the date of the first publication of this notice, whichever is later.

Department of Transportation

Request for Proposals to Conduct a Set of Focus Group Sessions

The Department of Transportation (Mn/DOT) is seeking proposals from individuals or organizations that have expertise in the use of a concept called Focus Groups to hold structured brainstorming sessions to identify useful application of microprocessor technologies to providing transportation services; to train Mn/DOT personnel to conduct effective Focus Group sessions on its own; to demonstrate the value of Focus Groups for possible future sessions on other topics.

Estimated cost of project is not to exceed \$5,000.

Inquiries and formal Request for Proposal documents should be directed to:

Richard A. Stehr, Director
Office of Transportation Information and Support
Rm. 820 Transportation Building
John Ireland Boulevard
St. Paul, Minnesota 55155
Telephone 612-296-7968.

All proposals must be received by October 1, 1985.

State Board of Vocational-Technical Education; and Department of Jobs and Training State Job Training Office

Request for Pre-proposals for JTPA-Education Coordination Services for Special Needs Groups

The State Board of Vocational-Technical Education and the State Job Training Office are seeking pre-proposals to provide job training services to individuals having identified special needs. These individuals include youth and/or adults who are handicapped (physically, mentally or emotionally including chemically dependent), minorities (including migrant workers), displaced homemakers, limited English speakers, single parents, offenders/ex-offenders, high school dropouts or public assistance recipients. All pre- and full proposals should be jointly developed by local Job Training Partnership Act (JTPA) service delivery area agencies and local education agencies. Proposals must also include input from special needs, community agencies. The training services, which will be provided under contract, are outlined in the Request For Proposals (RFP). A two-stage process will be used to select pre-programs for funding consideration. The first stage requires bidders to submit two-page pre-proposals for Committee consideration. The committee will then select pre-proposals and the appropriate agencies will then be invited to submit full proposals for funding consideration.

Bidder's conferences will be conducted in September. The purpose of these meetings will be to discuss the RFP process and to answer any questions. For further information on these meetings or on the proposal application, contact Steve Frantz (612/296-8493) or Kay Tracy (612/296-6064). The formal RFP should be requested from:

Art Vadnais
State Board of Vocational-Technical Education
519 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-3753

A total of \$413,851 is available statewide for funding of these proposals. Pre-proposals should be presented to the local JTPA service delivery area administrator no later than Friday, November 15, 1985 for review and approval by the local Private Industry Council. Pre-proposals must be *received* by Art Vadnais at the above address by 4:30 on Friday, December 13, 1985.

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Department of Corrections Community Services Division

Grant Funds Available for Services for Battered Women

Notice is hereby given that the Department of Corrections announces the availability of grant funds to provide the following services to battered women. Each category has separate guidelines and requires a separate proposal.

1. Grantees will assist battered women by providing direct advocacy service and/or by assisting communities in developing strategies to prevent persons from assaulting their partner.

STATE GRANTS

2. Grantees will design and implement a plan for addressing the needs of women which have not been addressed by traditionally funded programs.

3. Grantees will implement short-term projects which will effectively address the issue of battering.

These projects will be financed out of funds made available by the Minnesota Legislature. A total of \$479,900 will be available for an 18-month period. Any nonprofit corporation is eligible to apply. Proposals are due no later than October 4, 1985.

Direct inquiries to Maggie Arzdorf-Schubbe, Director, Program for Battered Women, 300 Bigelow Building, 450 North Syndicate Street, St. Paul, MN 55104. Telephone (612) 642-0253.

Department of Energy and Economic Development

Pilot Community Development Corporation Program 1986 Planning and Capital Venture Grants

The application deadline from Community Development Corporations for project grants for the calendar year 1986 (January 1, 1986-December 31) is September 30, 1985 at 4:00 p.m. Eligible applicants must be certified as a Minnesota Community Development Corporation.

This appropriation is available for expenditure only to the extent that it is matched by a community development corporation with \$2 of private money for each \$3 of state money. (This amounts to a private match equal to 40% of the total project cost.)

The Minnesota Department of Energy and Economic Development has authority over the project grants as authorized in Minnesota Statutes 116J.65 subdivision 5, and will make application packages available on and after August 26, 1985.

The applicant may apply for planning grants and/or capital venture grants.

Planning grants shall be available for:

- A. the organizational development of a community development corporation;
- B. comprehensive economic development planning for the designated community;
- C. the development of operational funding proposals.

Capital venture grants shall be available for two categories of projects:

A. Business ventures: projects in this category involve the community development corporation's establishment of, assistance to existing, or purchase of a partial or full ownership interest in a business venture to be carried on for profit within the designated community.

B. Infrastructure development: projects in the category involve the community development corporation's development of resources or facilities within its designated community that are necessary preconditions to the development of business ventures. Such projects shall be approved only where it can be shown that they will, in fact, lead to immediate business development and employment opportunities.

Anyone interested in obtaining the grant application may do so by contacting Patrick Conroy at the Minnesota Department of Energy and Economic Development, 900 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, phone: (612) 297-1304.

SUPREME COURT DECISIONS

Decisions Filed Friday, August 23, 1985

Compiled by Wayne O. Tschimperle, Clerk

C2-84-2244 Victory Lutheran Church, Relator v. County of Hennepin. Tax Court.

Upon the recorded facts, a residence adjacent to the church sanctuary is exempt from real estate taxation as church property under Minn. Stat. § 272.02, subd. 1(5) (1984).

Reversed. Amdahl, C.J.

C0-83-1020 State of Minnesota v. Donna Renier, Appellant. St. Louis County.

A hearsay statement, admittedly a declaration against the penal interest of the declarant, is inadmissible absent corroborating circumstances clearly indicating the trustworthiness of the statement.

For a hearsay statement of an unavailable witness to be admissible under the residual exception to the hearsay rule (Minn. R. Evid. 804(b) (5)), it must possess the necessary circumstantial guarantees of trustworthiness.

Alleged violation of the Rules of Criminal Procedure and the accused's due process rights, even if it occurred, does not entitle the accused to a new trial.

Affirmed. Kelley, J.

C4-83-470 Bruce Larson v. Richard A. Larson, Appellant. Lake County.

A possessor of land has no duty to warn an entrant of threats received concerning his property when any risk that the threat will mature into harm is speculative and not reasonably foreseeable.

Reversed. Kelley, J.

Dissenting, Yetka, J.

C5-85-93 St. John's Lutheran Church, Washburn Park, Relator v. County of Hennepin. Tax Court.

A duplex adjacent to a church building and used by the church for church purposes is exempt from real estate taxation as church property under Minn. Stat. § 272.02, subd. 1(5) (1984).

Reversed. Kelley, J.

C7-84-53 State of Minnesota, City of Eagan, Petitioner, Appellant, v. Taieb Hamid Elmourabit. Court of Appeals.

The evidence, taken as a whole, fails to establish beyond a reasonable doubt that defendant was driving his motor vehicle while under the influence of intoxicating liquor.

Affirmed. Simonett, J.

C4-84-267 Mary Lou Rindahl v. National Farmers Union Insurance Companies, Petitioner, Appellant. Court of Appeals.

Claimant homemaker, although also working 40 hours a week outside the home, had "full-time responsibility" for the care of the home, and, therefore, was entitled to replacement service loss benefits for the reasonable value of her household services under the No-Fault Act.

An injured self-employed person is not entitled to income loss benefits for the reasonable value of her services to the family farm operation.

Claimant, who contributed some 7 hours a week working in the family farm business, failed to establish that her inability to do that work resulted in any loss of "earnings from work."

Affirmed in part and reversed in part. Simonett, J.

Dissenting, Wahl & Yetka, JJ.

C2-84-638 State Farm Mutual Automobile Insurance Company, Petitioner, Appellant v. Nancy Galloway. Court of Appeals.

The claimant with a personal injury claim against several joint tortfeasors, including an uninsured motorist, may, without the consent or knowledge of her uninsured motorist carrier, settle with the insured tortfeasors on *Pierringer* releases, thereby depriving the uninsured motorist carrier of its inchoate subrogation interest against the insured tortfeasors. A "consent to settlement" provision in the uninsured motorist carrier's policy is ineffective to prevent such a settlement.

Affirmed. Simonett, J.

Took no part, Coyne, J.

C3-83-1299 State of Minnesota v. Howard Roy Kitto, Appellant. Hennepin County.

The right to make a peremptory challenge expires either when the attorney accepts the juror or when the juror is sworn, whichever is earlier. The trial court has discretion to permit a peremptory challenge from the time the right to make the challenge expires and until the entire jury has been impaneled. The trial court did not abuse its discretion by not allowing the challenge in this case.

The trial court properly admitted evidence of complainant's medical history which resulted from the sexual assault by defendant.

The prosecutor did not commit prejudicial misconduct in closing argument.

Affirmed. Wahl, J.

SUPREME COURT DECISIONS

C6-83-1202 State of Minnesota v. Curtis Owens, Appellant. Hennepin County.

Evidence was sufficient to support defendant's conviction of first-degree premeditated murder.

Defendant received a fair trial and is not entitled to a new one on the basis of newly-discovered evidence.

Affirmed. Coyne, J.

Orders

CX-85-1384 In the Matter of the Application for the Discipline of Mark C. Stafford, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly Reprimanded. Amdahl, C.J.

C0-85-910 In the Matter of the Application for the Discipline of Wayne A. Wentworth, an Attorney at Law of the State of Minnesota. Supreme Court.

Publicly Reprimanded. Amdahl, C.J.

C9-81-640 In the Matter of the Petition for Reinstatement of William D. O'Hara, Jr. Supreme Court.

Reinstated. Amdahl, C.J.

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

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Publication(s) you are receiving from us: _____

FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
B29 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 8 State Capitol, St. Paul, MN 55155
(612) 296-2146

Legislative Reference Library
Room 111 Capitol
Interoffice